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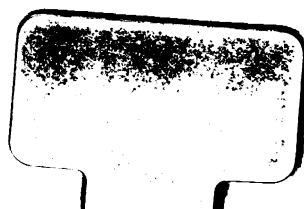
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A VINDICATION
OF
THE DUKE OF MODENA

FROM THE CHARGES OF

MR. GLADSTONE

From Official Documents and other Authentic Sources

SELECTED AND REVISED, WITH AN INTRODUCTION, BY

THE MARQUIS OF NORMANBY, K.G.

"Colla verità non si governa".....SALVAGNOLI

"Io ho cospirato per dodici anni"...CAVOUR, *March 27, 1861*

LONDON
BOSWORTH & HARRISON, 215 REGENT STREET

1861

N.B.—The reader is begged to bear in mind that in arguing, in the course of the following pages, upon the alleged Modenese Documents, printed by order of Dictator Farini, we cannot accept the text printed as really genuine; for there are ample evidences of falsification on the face of the so-called documents contained in the compilation on which Mr. Gladstone and his friends relied.



INTRODUCTION.

A SYSTEM of government which excludes the truth as an injurious element, and which adopts permanent conspiracy against its neighbours as the normal condition of a settled state, might be treated with silent contempt as a self-refuting heresy; but when such a system has been not merely tolerated, but encouraged, by the present Ministers of the British Crown, the character of this country is thereby compromised; and it is to this most important point that I specially desire the attention of the readers of the following pages. The insidious slanders with which the Duke of Modena was assailed were only one portion of a general system of falsehood, and a part of the universal conspiracy against all the neighbours of his sovereign, publicly acknowledged by the late Piedmontese minister.*

"Colla verità non si governa," said the Avvocato Salvagnoli to the Avvocato Brofferio, as recorded by the latter in a publication called "I Miei Tempi," which eighteen months ago made a great sensation throughout Italy.

That portion of the English public who have taken upon themselves to decide dogmatically what is best for Italy, seem to proceed upon the plan that it is safest to know

* In a despatch (1861) addressed by Baron Winspeare, late Minister of Francis II. at the Court of Turin, to the Marquis Villa Marina, late representative of Victor Emanuel, in Naples, are these words: "In the sitting of the 27th of March, of the Parliament of

Turin, the Count Cavour declared, with the utmost frankness and in perfect sincerity, that not only had he conspired during the course of the late events at Naples, *but that he had been a conspirator for the last twelve years.*"

nothing, because then they can believe anything. But they may perhaps think it a necessary exception to contented ignorance that they should ask who these parties are, the one of whom expounded and the other who exposed this new theory of government. The Avvocato Salvagnoli was at that time Minister of Religion! and of Public Instruction! to the Baron Ricasoli, then Dictator of Tuscany, and now Prime Minister of the *soi-disant* King of Italy. The Avvocato Brofferio is one of the most eminent popular lawyers in Italy, no believer in the patriotism of Count Cavour, and was therefore excluded by him from the first composition of the present parliament, which Garibaldi said publicly was composed of the *lacquais* of that minister. Signor Brofferio has since been returned at a single election. The Avvocato Salvagnoli was in Tuscany the most indefatigable of Count Cavour's conspirators *en permanence*, and was during the present British Foreign Secretary's residence of a few months in Tuscany, at the end of the year 1856, the most constant adviser and the most received authority on Italian affairs of that Noble Lord; at least, such was from that time the boast of that learned gentleman to all who would listen to him. This may not, at first sight, appear of much importance, but what is of the utmost importance to Englishmen is, how far the changed opinions of the Noble Lord, which have exercised so disastrous an effect on the destinies of Italy, are to be traced to information derived from a source avowedly so little trustworthy, and were the consequence of his exclusive political communion with Italians known there as Lord Minto's set, or the Piedmontese party.

The quick succession of strange events, with which public attention has been of late years distracted, rather tends to confuse the recollection as to the parts played by individual statesmen, and it operates as a convenient cloak to otherwise notorious inconsistency. But the reader will at once see why I, of all men, had the least reason to anticipate the

headlong adoption by Lord John Russell of a revolutionary theory, calculated to violate every Italian predilection, and to upset every Italian tradition.

On the 3rd of February, 1852, Lord J. Russell explained to Parliament the grounds of what every one then believed must be his final separation from Lord Palmerston. Having accomplished that task, he further expounded his creed upon foreign politics, especially pointing out the result of too ready an acceptance of the requirements of revolution. Every opinion he then expressed in that speech I still retain.

“But, Sir, there is something further, to which, if I may be permitted, I will call the attention of the House. Four years ago we were astonished with news of insurrections in most of the capitals of Europe, and of a general or something very like a general establishment of the most democratic constitutions. I heard Honourable Members in this House express their great joy at the establishment of these constitutions; but I could not participate in their joy or praises of what had occurred. I said, I looked upon these events with mixed feelings, glad if they should turn out to be events which promoted the liberty and freedom of the Nations of Europe, but being by no means confident as to that result. We have now seen four years pass over, and we have witnessed in almost all the countries where these democratic constitutions had been established, absolute power put in their place. For instance, in that little country of Tuscany, in which I lived for several months under the benignant rule of a most mild and enlightened government. We have seen that country overturned by democracy; we have seen the Grand Duke driven from his dominions by the party which seeks for what is called Italian Unity; and we have afterwards seen that democratic government suppressed, and the Grand Duke restored to absolute power.”—*Speech of Lord John Russell, February 3rd, 1852.*

It will be recollected that this was the deliberate opinion of Lord John Russell, after he had watched the progress of these events for four years as Prime Minister of this country, and with the advantages of that ready access to the reports of different agents which such a position ensures. But some other influences must since have been at work, when “the party which seeks for what is called Italian Unity” found such sudden favour in his sight; but a very few days after the Peace of Villafranca he sought to violate its conditions by

urging the notorious Buoncompagni to press on the Tuscan elections while power was still in Piedmontese hands. He thereby did his best to prevent the restoration of what he had termed that "most mild and enlightened government" to which he had formerly done such ready justice. Has it never occurred to him, amidst all the contradictions of his subsequent policy, and of his restless interference which he characterises as non-intervention, that the revolution is not now an easier master to serve than it was ten years ago, and that under similar circumstances the same causes will again produce the same results?

The testimony of Salvagnoli as to the system of the Provisional Government of Tuscany acquires additional importance from the present political position held by Baron Ricasoli, as the indignant censure of Brofferio which called forth this cynical avowal on the part of Salvagnoli was applied to the whole government of Baron Ricasoli. What Signor Brofferio complained of was, that the Dictator had done what he positively denied—that he had not done what he pretended to have done; that there had been all the arbitrary imprisonments with which he had been charged; that there had been wholesale intimidation and gross corruption at the elections, systematic violation of private correspondence at the post-office, and the most profligate waste of the financial resources of the Grand Duchy. To all these accusations his colleague and confidential adviser only replied, "*Caro mio, colla verità non si governa.*"*

Do not let it be supposed that such insensibility to all moral shame as is shown in the avowal is a national characteristic. Such "*sfacciatezza*" is not Italian; it is merely the type of that Piedmontese party of which Count Cavour was the incarnation. "*Lascia fare,*" which has been the bane of Italy during the last two years, is the result of that want of moral courage for which this clever and impressionable

* Brofferio's Memoirs, vol. xiv. pp. 95—115.

people have ever been famous. But if this unblushing proclamation of such an immoral axiom as "*Colla verità non si governa*" must have been revolting to the natural franchise of the Italian character, all sense of right and wrong must have been blunted by long abuse of words, before they could listen without indignant protest to that boast of Count Cavour, shortly before his death, when he stated in the Chambers, "I have been a conspirator for the last twelve years." How few of those who read such an avowal in their daily paper have stopped to consider what a thorough social demoralisation these words conveyed. A Prime Minister, acting in the name of his Sovereign, conspiring against the rights of all his neighbours! Why, his life must have been one long continuous deception, with an utter disregard of all that good faith in international relations, on which depends the welfare of man and the peace of the world. The practical application of the doctrine, "*Colla verità non si governa*," acquired its widest development under that permanent conspiracy which was boasted to have existed during twelve years; and of the means by which it was worked the papers relating to the Duchy of Massa Carrara furnish a most instructive epitome. But in the last two years there is hardly a public act of the Piedmontese Government which does not show that the system is still in full vigour. The English Foreign Secretary, on the 31st of last August, said truly "that the King of Sardinia was free not to accept the Preliminaries of Villafranca and the Treaty of Zurich, but having renounced a continuation of the war, and having given his royal word to live in peace and friendship with Austria, he was no longer at liberty to cast aside his obligation, and direct a wanton attack against a neighbouring Prince"—words worthy of the position which the Noble Lord occupied, but perfectly thrown away on those to whom they were addressed. From that time to this have the Piedmontese Government ever shown any sense of the moral obligation to which the English Minister so di-

rectly pointed? They have never said one word that did not merely adjourn, for want of power and want of means, the violation of their solemn engagements. They publicly repudiated the use of the King's name by Garibaldi, whilst they paid for all the corruption by which he worked his ends, and only waited to profit by them till those ends were apparently attained. They made a pretext for a treacherous attack upon the territories of the Pope, that they were garrisoned by foreigners, and at this moment they are employing an Hungarian Legion in shooting Neapolitan peasants and in burning Neapolitan villages. And as the Foreign Minister alludes above to the royal word, one is reminded of the personal assurance of Il Re Galantuomo, who, in his proclamation on entering the Neapolitan territory, said, "I come not to coerce your will, but to see that it is respected." But ere that time the Noble Lord must have learned the true value of the royal word, since he actually himself interfered with the French Government that they might remove any impediment to the coercion by Victor Emanuel, with an immense army, of the national will, by sea as well as by land.

Two examples alone will I give of the extent to which falsehood has been applied in every phase of the Italian question: the first is the most flagrant, as the second is the most recent instance. Complicated deception was never so unsparingly used as in the case of the Cession of Savoy and Nice. On the 7th. of February last year, on a motion for an address on that question, the Leader of the House of Lords made this statement:—"From Turin the answer we have received is that there is no engagement whatever between France and Sardinia respecting the annexation of Savoy, that it is not the intention of the King of Sardinia to yield, sell, or exchange Savoy." Now there was in the attendant circumstances every aggravation of perfidy. It turned out afterwards that this direct falsehood did not come in the regular course of a postal dispatch, but was

telegraphed, and thus caused the Government to deceive Parliament in the course of a critical discussion, but in the same parliamentary papers in which this denial is recorded, there is a statement on the authority of Mr. Fazy of Geneva, as within his own knowledge. It is unfortunately too true "that this *convention was signed* on the 27th of January *by the Sardinian Government*. A special aggravation, as far as we were concerned, was that the act was a direct violation of an engagement taken towards Europe, to which we were parties, and which was framed directly to guard against this transfer thus surreptitiously effected. But the most painful part of a review of these proceedings is that after repeated attempts to extract some explanation by which one could arrive at any other conclusion, one can no longer doubt that history will record that if there was something stronger than a *suggestio falsi* on the part of Piedmont, there was undeniably a *suppressio veri* on the part of our own Government. On the 5th of February Lord Cowley wrote a dispatch, the substance of which was a distinct notification on the part of the French Government, "We will do that to which you object, and we will do so because you by your conduct have forced us to it." How were we forcing the French to take Savoy? We professed non-intervention, but we were pressing on the formation of a great Italian kingdom for the aggrandisement of Piedmont contrary to the terms of the Treaty obtained by the arms of France, in violation of the engagements she had taken, and at variance, as she thought, with the interests of the French Empire. There can now be no doubt that the intelligence conveyed by Lord Cowley on the 5th of February was on the 7th, the night of the debate, in the hands of some member of Her Majesty's Government, and yet the Leader in the House of Lords was allowed to say, "There is at this moment no question of annexation."

In the face of such an extraordinary profession of ignorance, is it surprising that M. du Persigny, on the very first oppor-

tunity when he could address a meeting of his countrymen, should have said, "The Government of the Emperor renewed those warnings as soon as the Treaty of Villa Franca was called in question, and, above all, it never concealed anything from the English Government? *It is therefore, contrary to repeated assertion, with the perfect knowledge of all parties that the facts have been accomplished.*" If the British Government had upon that occasion acted under the impulse of that honest indignation which one would have thought as Englishmen they must have felt at the gross deception practised upon them, they might have resisted with success the contemptuous accomplishment of the project to which we objected. If the English Government were really in earnest, they should not merely have addressed remonstrances to France, where their little efforts of fitful energy could lead to no practical results, as all the world knew we would not alone go to war with France about Savoy. Suppose we had frankly and at once told the Government of Piedmont that, in consequence of its treacherous conduct towards us and the rest of Europe, in abandoning the trust confided to its safeguard, and then attempting for a time to deceive us by a falsehood, we therefore withdrew our protection, and could not recommend any portion of the Italian population to unite itself with so faithless a Power. We should thereby have once more allowed free scope to the independent expression of Italian wishes: if that people were really bent upon unity under Piedmont, they might equally have effected it without our interference. I may ask whether by such a course our national character would not have stood much higher with posterity? But here unfortunately the party exigencies of the present Ministry interposed to prevent the doing that which I cannot but think must have been the natural impulse of many amongst them. Whenever the Ministry of Lord Palmerston begins to tell the truth as to the real character of the Government of Piedmont, and to shake the wide-spread delusion with reference to

it, they would commit a suicidal act, as the popular errors with respect to Italian affairs, which they have taken so much pains to perpetuate, are identified with their last hold upon public opinion in England, so completely have they falsified every other expectation on the strength of which they forced themselves into power.

Mr. Gladstone himself will hardly be surprised to hear that his partial and capricious personal intervention in the cause of the Revolution has excited observation throughout Italy. Many of the organs of public opinion, excepting those of the Piedmontese Government and their ready echoes, "our own correspondents," express distrust as to his being actuated alone by high motives of pure humanity. The question, "Why is Mr. Gladstone now silent on Neapolitan affairs?" has been repeated in many Italian Conservative journals whose talent is equal to their courage, the latter sorely tried by mob outrage and ministerial persecution. The publication of Mr. Gladstone's former researches was at the time much criticised for exaggeration and disproved by facts from authority. There is no doubt there were many things in the state of Neapolitan prisons that required amendment, although the acknowledged abuses existed in a much less degree than was stated by captious and deluded travellers, or than existed at the same time in the prisons of Sardinia, as described by Lord Vernon, who has studied Italy thoroughly, from the beauties of Dante to the horrors of a Sardinian prison. Lord Vernon wrote to correct that which he thought a disgrace to a civilised government; but he wrote without political object, and therefore without popular effect, and the prisons of the island of Sardinia remain as bad as ever.* The "Armonia" of Turin of the 5th of July, in enumerating a series of aggravations in all the heads of misgovernment of which Mr. Gladstone had formerly complained, accuses him

* Lord Vernon published his account of the prisons in the island of Sardinia eight years ago.

of not noticing them now because the actors in them were now the agents of a revolutionary, not of a regular, government. One might, for instance, have expected an indignant protest from Mr. Gladstone on the following case, considering his former complaints against the Bourbons and his recent accusations against the Duke of Modena, for detaining certain prisoners in a reformatory until they learnt some trade by which to earn the means of honestly supporting themselves. The case referred to is this. In a dispatch from the Governor of the Capitanata, dated last October from Foggio, are these words :—

“To the Director of the Minister of Police.—In your order of the 18th instant it is declared that any one confined with the mark of reactionist against his name, even when acquitted by judicial authority, shall be detained in prison at the pleasure of the Minister. As long as I remain in the administration of affairs in this Province, I will not obey any such order. The just complaints of those who having been acquitted are still detained in prison, and the inviolability of those judged and proved innocent, have more weight with me than any such instructions. And whilst I do not like to oppose myself to the orders of the Minister, still less can I disregard the dictates of my own conscience. I have therefore by this courier sent the Minister my resignation as Governor of this Province.

“Foggio.

(Signed)

G. DEL GIUDICE, Governor.”

The order *to detain* prisoners whose name marked them as reactionists was dated October, just before V. Emanuel declared that he came “not to coerce the Neapolitan people, but to see that their will was respected ;” and the detention of reactionists in prison, merely on account of their opinion, explains the real value of the vote by Plebiscite. The Minister whose instructions were so honestly repudiated by Governor del Giudice was Signor Conforti, since promoted, and high in the favour of the Central Government.*

* The last few days have produced two publications from very different sources, marking the discredit into which the statements of Mr. Gladstone on these subjects had latterly fallen.

“Never was there a man so well constituted by nature for a dupe, as the Chancellor of the Exchequer. Rash as it may appear to say it of any Chancellor of the Exchequer, we believe it

The exponents of public opinion on the Continent could have understood why Mr. Gladstone, sufficiently occupied in his search after a surplus, should have left to his colleagues the examination of Italian affairs. But as, if he said anything, he must have admitted in common candour that Naples

to be emphatically true of Mr. Gladstone. Mr. Gladstone, with all his subtlety, his grasp of details, his incisiveness, his keen and clear intellect, is singularly deficient in penetration of character. But penetration of character was the one faculty which was all-important to him during his stay in Naples. The deficiency in this faculty, predisposed as he was to favour their views, placed him, with his eloquence, his fine moral sense, and his capacity, as absolutely at the disposal of these men, as a rifled cannon in the hands of artillerymen. Things are so easily forgotten that it would be well perhaps to reproduce the testimony of *M. Petruccelli della Gattina* :—

“It is time to have done with these *fétiches*. *Poerio* is a conventional invention of the Anglo-French press. When we were agitating Europe and exciting it against the Bourbons of Naples, we wanted to personify the negation of that horrible dynasty; we wanted to present every morning to the readers of Liberal Europe a living, palpitating, visible victim, whom that ogre Ferdinand used to devour raw at every meal. For this purpose we invented *Poerio*. . . . The English and French press excited the appetite of that great philanthropist, Gladstone, who repaired to Naples to see with his own eyes this new sort of man in an iron mask. He saw him. He was moved, and like us he set to work to magnify the victim, in order to render the oppressor more odious. He exaggerated the punishment, in order the more to irritate public opinion, and *Poerio* was created from top to toe. The real *Poerio* has taken seriously the *Poerio* whom we had been fabricating for twelve years in articles at three halfpence a line. Those also have taken him seriously, who, without knowing anything about him, had read what we related about him.” . . .

PIEDMONTESE ATROCITIES.

To the Editor of the John Bull.

Sir,—Will you do me the favour to print in your columns a few extracts from a letter of an Anglican clergyman sojourning temporarily at Naples, whose account fills one with horror at the fearful atrocities of the brutal Piedmontese?

“You will be astounded,” he writes, “to hear how fearful are the sufferings of those who are suspected of sympathising with the King of Naples, and desire his return. They are harassed in a manner which English people can hardly comprehend, and a system of tyranny is established which positively exceeds all that can be imagined. Many members of families of the highest classes—including women—are walked off to prison upon no charge whatever, without any examination, and with no prospect of being released. I am informed on the best authority that the prisons are full of suspected favourers of their lawful King. When I came here, I did so prepared to take for gospel all the facts and statements of Gladstone’s celebrated pamphlet. I have had excellent opportunities of examination, and find that there was little or no foundation for many.

“If the English people were not so utterly deluded by the newspaper statements and telegrams—many of which are known to be manufactured by the Piedmontese officials, in order to mislead our nation—it would be impossible that they would morally sanction the fearful state of anarchy and cruelty which at present obtains. Last night I received the ‘Times,’ giving an account of some proceedings here six weeks ago, which I know to have been so highly coloured and distorted as to have been wholly misleading. . . .

was in every respect in a worse state than when he formerly described it, they do not understand upon what *principle*, after maintaining so suspicious a silence on that subject, he should have brought forward from the confused and malignant compilation of his friend Farini seven selected charges against the Duke of Modena, a Prince no longer in power. Of these charges, those that are grave are proved to be groundless, and those whose falsehood could not at once be proved are frivolous and futile in the extreme.

Although one knows there has been a literary partnership between Signor Farini and Mr. Gladstone, one is surprised to find a man of Mr. Gladstone's personal character and high official position an accessory in the appropriation to public use of the most confidential papers purloined from the Duke's private bureau—such as the letters from the Duke to his Minister on the character of the Emperor Napoleon, when he adds, in the extreme of personal confidence, "To no one else in the world would I have said thus much."

Some few weeks ago six Neapolitan clergymen, men of position and ability, greatly beloved by their people, were actually shot in cold blood at Caserta by a detachment of Piedmontese soldiers; and when some of the populace exclaimed against such a step, the commanding officer directed them to 'fire upon the — followers of Francis.' This was done. A woman with a child at her breast was killed, and three other persons seriously wounded. . . . On one thing you may rely, that if a war with Austria took place, and the Piedmontese were hard pressed for troops, there would be reprisals here of a nature too terrible to think of. . . . I came out a warm admirer of Mr. Gladstone and Liberalism. When I return I shall be ready at all times to maintain that he has been thoroughly deluded by those who professed to give him correct information in times gone by, and to place before the public what I myself have seen and heard as the result of the

Piedmontese invasion and the moral support of England in behalf of revolution and robbery."

I think it only fair, as I venture to publish these remarks without permission of their author, to add my name as a guarantee for their authenticity, and I remain, Sir,

Your most obedient servant,
FREDERICK GEORGE LEE.

*Fountain Hall, near Aberdeen,
August 20, 1861.*

In the "John Bull," a few weeks since, also appeared a letter from Mr. Horace Langden, a gentleman residing at Leghorn. It gave an interesting account in detail of the present state of that once happy country, Tuscany, and bore the signature of the writer. This, though a somewhat rare instance of moral courage, is the only efficient check upon the licence in which anonymous correspondents have so long indulged.

But it appears that it is not only on anything so unsubstantial as *written ideas* that Signor Farini's notions of *meum* and *tuum* are somewhat confused. I am informed, on the highest authority, that much private property belonging to the Duke, as well as valuable articles belonging to the Duchess and his sister the Infanta, were, by Farini or his family—shall I say stolen?—no, annexed! is it the same thing?—were packed up, and were carried off to Turin. This accusation may be said to be vague, because it is comprehensive; but here is a precise fact. A Minister of the Duke of Modena has made known to me, on his own knowledge, that all the royal linen at the palace was appropriated. As it was marked "F." it would do as well for Farini as Francesco.* My informant further adds that the fact of wholesale appropriation of the Duke's property was so notorious that it could be proved by hundreds of witnesses.

There is no form in which the perversion of the truth is so mischievous as in the mouth of a British Minister, who, profiting by the credit which belongs to that character, misrepresents facts, the knowledge of which he is supposed to derive from his official position.

It might have been supposed that the sanguinary attempt to force the military tyranny of Piedmont upon the Neapolitan population had been too well known throughout Europe not to check those reckless assertions for which the ministerial leader is so notorious. The real state of the case, the steady progress of reaction, founded upon the principles of patriotism and national independence, has been admitted by the published telegrams of the provincial

* Doctor Farini was Dictator at Parma at the time of the atrocious murder of Colonel Anviti, and professed at first extraordinary zeal for the discovery of the assassins, which zeal all evaporated in the expedient—more ingenious than efficient—of ordering the destruction of the column on

which the head of Anviti had been exposed. He did not, however, *overlook* the less exalted but more active agents of crime. I have before me the name of a notorious accomplice in the deed, who received from Farini a lucrative employment in the Post-office.

governors themselves, by the practical failure of each successive Lieutenant of Victor Emanuel, of Farini, of Prince Carignan, of Cavaliere Négri, and lastly of Ponza di San Martino, who in a published letter has explained why he would not share the responsibility of the military executions of Cialdini: all these facts were feelingly pointed out by different Neapolitan Deputies in the Parliament of Turin. Ricciardi complained in his place three months ago of the treatment of the Duke de Cajanello, who is still in prison, saying that he only wished they would show the same mercy to him, which under similar circumstances he had himself received from Ferdinand II., and added that if the popular vote were taken now, it would not be for annexation. And in the face of all this Lord Palmerston thus expressed himself at the close of the Session, amidst the ready cheers of the thirty or forty satellites and placemen who, with one or two exceptions, alone remained to wind up the routine business.

“These are the sort of persons the Honourable Baronet (Sir G. Bowyer) takes into his tender compassion, whom he is sorry to see put down by these moveable bodies of troops, and in whose behalf he wishes the English Government to exert itself to procure their impunity. I can assure the Honourable Baronet, with great satisfaction, that the English Government will do no such thing. We hope that the vigour of Cialdini and of Pinelli will succeed in restoring security to the disturbed districts, where alone these outrages are committed, that the wretches who perpetrate them will receive the proper punishment in the course of no great length of time, and that the population will be relieved from the misfortunes that have been brought on them from Rome!!”

The absurd perversion of known facts which these words contain can hardly be accounted for by ignorance, which would be unpardonable in a person in his position. And the absence of the common feelings of humanity cannot but shock every one who knows the sanguinary events that have already occurred, and the character of the actors in those events to whom he refers by name. Is it possible that Lord

Palmerston is in ignorance that at this moment there are more than 10,000 persons in prison in the Kingdom of Naples for political causes?—that in the last six months there have perished by military execution 617 people, whereas a work published at Bologna, called “*Il Martirologio*,” makes it an accusation against the Italian rulers, that in fifty-four years, in the kingdom of Naples, 333 people had been executed by sentence of a regular government,—333 in fifty-four years, 617 in six months! Does Lord Palmerston any longer wonder that they want “least of all such change as he would bring”?* But I will give Lord Palmerston the most recent intelligence of his favoured protégée. In a published letter from Naples dated the 6th, it is stated that many persons having called upon General Cialdini to complain of the illegal arrest of Princes Pepoli, Montemiletto and others, the answer was, “*Where all the classes of the people are against the Government*, I must strike the great in order to make the lesser tremble, and since I have entered upon a career of severity, depend upon it I will not recoil from any act.”

It is impossible that Lord Palmerston should not have heard of General Pinelli, in whom he also expresses his confidence,—that he should not have read his infamous proclamation, in which he ordered that any one that did not salute the arms of Sardinia should be immediately shot,—and that he should not have known that the Under-Secretary for the Foreign Office, when told of the fact in Parliament, could only absolve the Sardinian Government from complicity in such a monstrous act, by stating that the general had been immediately recalled. He is now again in command, and the very day in which the Noble Viscount so warmly expressed his confidence in him, the foreign papers

* These calculations as to the numbers killed in cold blood or arbitrarily imprisoned, are taken from publications now three months old—I leave it to

my readers to calculate from daily reports how fearfully the victims must since have multiplied.

give the following recital of his last act, taken from the "Corriere del Mezzodi," a newspaper published at Naples —

"Horror! horror! Yesterday, without any previous process, without any examination, six persons were shot in the public place at Somma, a town situated at the foot of the mountain of that name, and within six miles of the capital. In the name of God! let the Piedmontese Government, which denies with so much impudence in the face of Europe the cruelties of these generals, either justify or deny this new act of wickedness, of which history furnishes no example. Unfortunately, however, for the disgrace of humanity, the act is too true. We have it from numerous eye-witnesses, who flying the country have reported the act as follows:—

"As soon as the Chasseurs des Alpes arrived at Somma they sought out the unhappy victims marked out for their barbarity, and without the slightest question, without any domiciliary search, they were seized, dragged to the public place, and immediately shot,—*their crime being the suspicion of having conveyed bread to the Royalists!*"

The Emperor of the French was actuated by what we should have been accustomed to call an English feeling, when, in striking contrast to the language of Lord Palmerston, he telegraphed to his agent at Turin, that the barbarities of these generals would alienate from the Italian cause, thus disgraced, the sympathies of every man of common humanity.* But if Lord Palmerston will not learn propriety of language, as connected with feelings of humanity, from the elected chief of the French nation, perhaps he will listen to the indignant protest against the proceedings he eulogises from the Cavaliere Massimo d'Azeglio. That worthy man is, we all know, "Italianissimo" in his own honest fashion, very different from that of his ministerial successor: if his firmness in maintaining his convictions had only equalled his keen discernment, he might often have prevented much mischief. But with respect to the attempt to dragoon the Neapolitans into becoming Piedmontese, he says:—

"I know nothing of this result of universal suffrage, except that it requires sixty battalions to maintain it,—a Government said to be established by universal

* The Emperor's letter ended: "les Bourbons n'ont jamais fait autant."

consent. There must here be some great error; we must change either our acts or our principles. We must ascertain once more, and once for all, from the Neapolitans whether they will have us, 'Yes, or No.' I can comprehend that the Italians have a right to make war on those who wish to retain German rule in Italy: but because Italians, whilst remaining Italians, will not unite themselves with us, I say that we have *no right* to send battalions to shoot them down, unless, once for all, we mean to adopt the principles and the name of Bomba, who bombarded Palermo and Messina. Many may not think as I do, but I always say what I do think, and I have never abandoned the privilege to use my own common sense."

It will be recollected that Massimo d'Azeglio did use his common sense to his own credit, when, some years since, he thoroughly exposed those fantastic schemes of Count Cavour which were brought before the Congress of Paris for the mere purpose of unsettling men's minds, and which were listened to and received with such unaccountable tolerance by some members of the Conference.

It has been stated by some of the friends of Count Cavour (and if it were not to his credit I would not repeat it), that during his last illness he frequently reverted to the state of Naples, declaring that he would never proclaim a state of siege.

In the Turin liberal paper of to-day, "Il Diritto," it is stated, "The new system for these unhappy provinces is not a state of siege. Our Government have a horror of a state of siege. It requires the concurrence of Parliament, and in execution at least the appearance of a judgment, however summary. It pleases our humane ministers to call it a *state of war*, which permits the shooting of men by dozens without the slightest formality of any kind."

No one doubts that the signal failure of his Neapolitan scheme had an injurious effect upon Count Cavour. His social nature was opposed to violent measures; there was nothing in him to provoke personal enmity, even if the grave had not now closed upon the expression of any such feelings: at the same time death gives a permanent historical character to individual judgments; but there are some

things it cannot do. It cannot convert conspiracy into honest straightforward policy, nor obliterate the strong line of demarcation which in every honest judgment must ever separate falsehood from truth. Nor can its softening influence account for the startling announcement that Ministers of the British Crown have for the first time subscribed to the monument of a foreign statesman, in utter oblivion of the fact that in the conduct of international relations he had practised upon them and upon their country the most flagrant diplomatic deception ever recorded in history.

It is very difficult to understand what can have been the object Signor Farini had in view when he published this discreditable and unreadable production. Perhaps the most plausible motive was to excite the enmity and disgust of the Emperor Napoleon, in order that he might thereby be deterred from persisting in the fulfilment of the engagements he had taken at Villafranca in the name of France, one of which was the restoration of the Dukes in Central Italy. Two letters, of the most secret character, from the sovereign to his first minister, in which he speaks of the personage on whom the fate of Italy chiefly depends in a manner sure to be displeasing, were dishonourably purloined, and, when published, were thus ostentatiously headed: "*Odio furioso contro Napoleone III., la Francia ed il Piemonte, le due famose lettere autografe di Francesco V., ed atti che ne stabiliscano l' autenticità.*" But in any such insidious intention I am convinced that Signor Farini did the greatest injustice to the Emperor Napoleon: any such personal pique is not at all in his character. It may be difficult to account satisfactorily for the elected chief of so high-spirited and chivalrous a people as the French voluntarily owning that he is impotent to maintain the engagements to which he had pledged the word of France, whilst he himself still thinks that the arrangements sanctioned by that word were the best for all parties. Moreover he has now for the first time courted the deliberate

opinion of the Legislative Bodies in the shape of an address, and the tone of the answer showed indisputably that any step by which he allowed himself to be forced to violate the policy proclaimed and the engagements taken at the time of the peace, would be opposed to the wishes of the French people, as well as contrary to their high sense of national honour.*

If the Emperor chose to insist that a thoroughly free appeal should be made to the Italian people, all the fabric of forced unity would at once disappear, for such has become the universal unpopularity throughout Italy of the substitute urged upon them by the English Government, and the general apathy evinced towards it by the people, that electors will not go to the poll†, the members will not

* Whatever may be the boldness of Piedmontese assertions, the unbounded credulity of those upon whom they practise always keeps pace with it. A curious instance has occurred to demonstrate this, even whilst these papers are passing through the press. A pamphlet entitled "*L'Empereur, Rome, et le Roi d'Italie*," has had almost universal success as an Imperial proclamation. To me, it bears conclusive evidence on the face of it, that it is a Piedmontese production. There is one sentence in it which would alone dispose of the whole question of official *solidarité*. In page 16, after settling the question of Rome, it proceeds:—"Venise viendra après. On se souvient que la Vénétie, livrée à l'Autriche par la traité de Campo Formo, fut délivrée à Austerlitz. Qui sait si de même, aujourd'hui, la Vénétie, abandonnée à l'Autriche par la paix de Villafranca, ne sera pas délivrée par une nouvelle grande victoire européenne, et sans effusion de sang en Italie, en dépit du quadrilatère!"

Whatever suspicions may be entertained of the Emperor, with or without reason, is it the least likely that he should, by such an unnecessary avowal, seek prematurely to excite

against him the just distrust of every power in Europe? Mr. de Morny has almost simultaneously announced that the Emperor's word is the guarantee of general peace. But before "une grande victoire européenne" can produce such collateral results as the pamphlet boldly contemplates, the frontier of the Rhine must be reconquered, Belgium absorbed, and Prussia partitioned. In such a contingency he would probably have the power further to gratify the Piedmontese with Malta and the Ionian Islands, which the Italianissimi now demand as their right equally with Venice.

One remark more. This pamphlet is written in the name of constitutional government. None but a Piedmontese could have overlooked the palpable contradiction that he is demanding, a step which has been rejected by the united legislature of France when appealed to on this very point. Only five of the representatives of the French people voted on the address for the withdrawal of the French troops from Rome.

† A striking instance of the utter indifference of the population to the elections was shown in Turin itself. A day was fixed for the choice of a successor to the late minister, Count

remain at their post, and conscripts will not join their ranks.*

In conclusion, whilst I express my belief that no Sovereign would be more sure to be brought back by his own subjects

Cavour. The new minister, Ricasoli, was the candidate in the first electoral division, containing 50,000 inhabitants; but, the legal number of electors not answering the call, the election was void. According to the electoral law, the ceremony is then adjourned for a week, when, at what is called "le ballottage," the choice is final, however few the voters. In the mean time, Ricasoli having been elected at Florence by a bare sufficiency of voices, there were two other candidates at Turin, who did not between them unite 200 votes out of a population of 50,000. A lawyer of advanced opinions, who had the reputation of being a man of action, polled 103, and a ministerial general 86! What a commentary is here upon the cry that it is necessary to yield everything to the irresistible popular will of the Italian people! Yet Baron Ricasoli, still clinging to the system of his late colleague, Salvagnoli, makes it a boast that not one of the partisans of the late government had been chosen deputies. As if he did not know as well as I do that this arose from the fact, that all the principal organs of the anti-revolutionary parties had publicly declared beforehand, "This time we will neither be electors nor elected."

* The "Perseveranza," the Piedmontese Government journal in Milan, thus reviews the state of Italy in its number of the 25th August:—

"It is vain to conceal that Italy has been for some time past in restless excitement. Public opinion impatiently points to the signs of a condition, the uncertainty of which is prolonged, and which obstinately denies any token of improvement. The condition of Naples every moment exhibits some new phase; mild measures alternate with heroic: on the one hand we have applause; on the

other, severe measures of repression and frightful scenes." The same journal is deeply anxious about the *countless desertions* of the Italian army.

An advocate, Piacentini, in a public letter in the Turin journal of the 24th, draws the attention of the Ministers of the Interior and of War to these desertions; and the "Perseveranza," in printing the same letter, adds that it made a deep impression in Turin. The advocate was on the Monte Viso, at the sources of the Po, and narrates that the soldiers were deserting in crowds by secret paths, and with guides acquainted with them, over the Alps into France.

The troops in that part of the country consist chiefly of the Neapolitans and Central Italians, who were forced into the Piedmontese army, and the treason that demoralised the army of Francis II. last year was that of the generals and officers, and not that of the men.

The "Gazzetta del Popolo" (Mazzinian) adds similar accounts from the Emilian provinces.

"Desertion," says the "Pungolo," a Milanese revolutionary journal, in its number of the 28th August, "is the order of the day in our army."

Another revolutionary journal, the "Gazzetta del Popolo," enters into details upon the attempt of the Neapolitan prisoners to seize upon the Piedmontese fortress of Fenestrelles. That Mazzinian organ (28th August) remarks consequently upon the "*charming ingenuity*" of the individuals that exclaimed against breaking up the Bourbonic army, and who would fain have kept it whole and intact, sending it to garrison our northern provinces, while all our old army would have been sent to the southern. What a *magnificent* affair it would have been! While the brigands would have kept

than the Duke of Modena, I regret to have to observe that the last and most flagrant example of the axiom, "Colla verità non si governa," is found in the perversion of historical truth by the Secretary of State for Foreign Affairs, on the 9th of July, when he stated in his place that the Duchess of Parma and the Duke of Modena were driven from their dominions by internal insurrection consequent on the war. The Duchess of Parma was driven away for two days by a Piedmontese plot, but restored by the spontaneous action of her people, and her subsequent departure was

our fellows occupied in the land of Naples, the Bourbonic army would have been in possession of the capital, the fortresses and arsenals of North Italy, and perfectly masters (*padronissimo*) to summon thither little Frank (*Franceschiello*) and the Austrians. Rather different from going to Rome! We should have played at fool in four corners; Victor Emanuel precariously in Naples, and Frank in Turin."

The same revolutionary journal, in one of its recent numbers, alleges that in one new province alone, out of 2000 conscripts, only fifty-nine presented themselves. Here again we have evidence of the spreading of "brigandage," as it is called (the patriot sharpshooters of Tyrol, and our allied guerillas in the Spanish peninsula, were styled brigands too in their day).

The "Lombardo" of the 20th gives the following particulars about the signs of the times in two annexed Pontifical legations, which, coming from such a source, can certainly not be suspected:—"From a private correspondence from Rimini I draw the following: The refractories of the levy in the Romagna are drawing to a head within the old Tuscan frontier, and though they do not attack the public force, they do not hesitate to receive with powder and ball the gendarmes (*carabinieri*) whenever they come face

to face. In the marches, moreover, the refractories, gathered in bands, move to assail even the gendarmes."

The "Unità," of Milan, prints, from a Bologna correspondent, further confirmation of these spreading symptoms:—

"In our mountains, for some time past, there are signs of brigandage. . . . The brigands are now playing the masters, and divided into several bands, the number and importance of which are not yet known. The nearest is on the Loiano mountains, and seems to be of some importance, for in the evening of the 20th a company of Bersaglieri went off thither, and on the 21st another company." The writer insinuates that the bandits consist of "Bourbonists and refractories."

From Lucca, the "Movimento" learns:—"From the moment that the dépôt of the grenadiers came here till now, there have been several Neapolitan desertions."

A letter from Modena, in the "Diritto," says:—

"Some friends of ours in the city of Mirandola have informed us, to our displeasure, that on the Mantuan frontier the desertion of our soldiers still continues, and that on the 21st of this month there arrived in Mantua forty of our deserters."

caused by the entrance of a foreign army, and the refusal to respect her neutrality on the part of Piedmont.

As to the Duke of Modena, it is sufficient to shame the groundless assertion of the Foreign Minister to place in juxtaposition the just pride shown in his own honest words.

Merely reminding Lord Russell as a fact he ought to have remembered, and did know, that upon the invasion of his States by the 5th corps d'armée, under Prince Napoleon, the Duke of Modena executed a regular military retreat with his whole army, marching in four days at the rate of ten miles a day from Modena to Mantua, I conclude with the Duke of Modena's own words:—

“ If my government had been as arbitrary as Mr. Gladstone likes to believe it, I know not why so many families emigrated with me: why up to this time not one has returned home, although suffering much thereby in their material interests; why my troops abandoned their country and their families for an indefinite period, resisting seductions of every kind and menaces of revolutionary vengeance; why, in short, troops cut off from their own country should continue to recruit their ranks far better even than when I held authority in my hands.”

P. S.—And here I had dropped my pen, having, as I thought, collected and recorded sufficient proofs that the elaborate machinery for slander, of which it was intended to make the Duke of Modena the victim, was only part of that system of falsehood by which the Piedmontese Government sought to maintain its usurpations; but for the last two years the restless interference of the British Government in aid of those usurpations has been so incessant that there has hardly been a momentary pause in which to strike a balance between the professions and the acts of our Ministers.

On the 18th of July, 1859, within ten days of the signature of the Preliminaries of Villafranca, the English Foreign Minister, in a dispatch to the Secretary of Legation at Florence, prescribed as applicable to Tuscany the first direct

violation of the terms on which the belligerents had agreed to restore peace to the world.

Up to that time England had been respected for her *bonâ fide* neutrality. She at once sank into the position of an underhand partisan, and an accessory in all the fraudulent pretences by which public opinion has since been falsified.

One should have thought that at the latter end of August a calm review of past proceedings might be brought to a conclusion without being interrupted by any overt act on the part of Ministers, directly at variance with the line just proclaimed in the Royal Speech, which they had authority to pronounce by Commission.

When one reads these words, "Her Majesty has throughout these transactions abstained from any active interference," one could not expect to hear that the whole English fleet had again appeared off Naples, and that for the first time a portion of the crews and marines had landed, and had marched miles into a disturbed part of the country ;—and yet this is not the first time that these Ministers have been insensible to the peculiar responsibilities entailed by such a delegation as the authority to speak in the name of the Sovereign.

In the Commissioners' Speech of the 28th of August last year, are these words :—

"If no Foreign Powers interfered, and *if the Italians are left to settle their own affairs*, the peace of Europe need not be disturbed."

Yet a few days before, whilst Lord Palmerston may have been composing this very speech, he had given direct encouragement to the formation of that British Legion which subsequently disgraced the name it bore, and which certainly was not formed in order "to leave the Italians to settle their own affairs."* The Minister being asked as to the illegality

* In a work just published by a Mr. the Garibaldians through Italy and Bicknell, headed "In the Track of Sicily," the British excursionists are

of enlistments in England under Garibaldi, gave this useful hint as to the mode of evading the law—speaking, as is said, in the presence of Major Styles—*alias*, Private Styles—who by special favour was sitting under the gallery in his Garibaldian red shirt—"These persons in answering the invitation of certain officers and gentlemen, might allege that they were only going to see what Mount Etna was doing!" The pleasant old gentleman will perhaps try the same facetious fraud upon the Foreign Powers, whom he requires not to interfere, and assure them officially—as the proceedings of the two mountains are somewhat similar—that Her Majesty's forces have only landed to see what Mount *Vesuvius* "is doing." Speaking seriously, can a grave and orderly people, as the English are, like thus to be joked into a violation of all laws, treaties, and obligations, by one who for more than half a century has been employed to administer and observe them?

I will not stop to notice as a curious example of the Minister's notion of non-intervention the confidential mission of rather a singular agent, Mr. Edwin James, who alleged that he was acting under the personal instructions of the Prime Minister, conveyed to him in a parting interview, confirmed as these pretensions were by the published fact

thus described:—"I believe that during the whole war no troops in the service of Garibaldi, Francesco, or Victor Emmanuel ever perpetrated excesses at all equal to those of the British 'Excursionists.' I may even go further, and say, not only that was their conduct during this march a scandal without parallel, but that, with the exception of the first day or two after their landing, the English legion was a constant trouble and obstruction to Garibaldi the whole time it was in Italy. Some of the officers of the brigade themselves estimated that at least two-thirds of it was composed of the lowest blackguards our island

affords, men who seem to have gone out to Naples solely in the hope of finding a country in revolution a clearer field for their malpractices than their own. More costly than any soldiers in the Garibaldian army, they were nevertheless the only ones of which nothing could be made. From insubordination they advanced to desertion, and from that to robbery and other crimes. So that it is not to be wondered at that Garibaldi, after disbanding them, said, 'I love the English—they have been brothers to me all my life, but thank God I have done with the English Volunteers.'"

that he was accompanied even into the presence of Garibaldi by the step-grandson and private secretary of the Minister.

If, as is stated by the Royal Commission, "Her Majesty has throughout these transactions abstained from any active interference," it is unfortunate that Garibaldi's first landing was much facilitated at Marsala by the fortuitous presence of a British man-of-war, and by the absence on shore of a portion of the crew; that, according to the reports in the usual sources of information of those not unfavourable to the enterprise, three naval officers in British uniform assisted at Garibaldi's bivouac, ten miles from Palermo, the night before the capital was attacked; that from the same source we learn many desertions had taken place from H.M.S. "London" to join Garibaldi's corps; and that the guns of the invaders were placed in position to attack the Royalists in their lines before Capua by men serving in Her Majesty's ship "Renown."

When one knows that such things have been—all in the much-abused name of non-intervention—one cannot doubt the feeling of every Government in Europe, not the partisan of universal revolution, when this practical interpretation is given to the last words of the Prime Minister. In the name of humanity it was sought to extract from him some assurance that he would endeavour to check the cruelties perpetrated throughout the Kingdom of Naples on the native population by the Piedmontese generals, he replied: "I can assure the honourable gentleman, *with much satisfaction*, that Her Majesty's Government will do no such thing." "With much satisfaction" indeed! One must then conclude that it was "with most sincere satisfaction" the Prime Minister heard of the last exploit of his favourite, General Cialdini. At the very time that the English fleet arrived to uphold Piedmontese domination the facts occurred thus described in the official bulletin, 14 August:—

"Ieri mattina all'alba giustizia fu fatta contro Ponte Landolfo e Casalduni."

"Yesterday at dawn justice was done upon Ponte Landolfo and Casalduni."

This concise and cynical announcement means that at break of day two towns (one of five thousand, the other of three thousand inhabitants) were completely burned to the ground by Piedmontese troops. It appears to the credit of some of the troops that they at first refused to obey such diabolical commands, but General Cialdini (in whose energy Lord Palmerston has such just confidence) sent his A.D.C. with strict orders that his pleasure should be executed to the letter. And all the aged and the infants of both sexes who could escape the flames in which they were thus suddenly enveloped were without cover or shelter thrown upon the wide world. All! no not all: the exceptions proclaimed make the monstrous cruelty more conspicuous. "Seven or eight houses of liberals were spared." So that out of a population of eight thousand the Piedmontese could only find these units who sufficiently sympathised with them not to be exterminated by fire as well as sword.*

It is said that a company of Bersaglieri had been there put to death. It is very possible. Such scenes as those at Somma, where, without warning, without accusation, peaceable, unarmed individuals were seized, and instantly shot in the public place in the presence of their families and their friends, will lead to fearful retaliation.

The whole population of those countries are—

"Children of the Sun,
With whom revenge is virtue."

But in their heroic defence of their homes against the invader they killed only fighting men taken in arms, whilst the regular troops of the Rè Galantuomo, under the orders of his Lieutenant, set fire to hundreds and thousands of the homes of sleeping women and children.

* "Upwards of two hundred women from the soldiers into the flames." So perished in the lofts, having rushed says the "Times" correspondent.

And is it to assist at such scenes that the marines and crews of Her Majesty's fleet are ordered to land (as stated in the French papers) to the tune of *Garibaldi's March*? A letter from Naples of the 27th of August induces one to hope better things, more consolatory to the common feelings of humanity, and more in accordance with the natural character and known impulse of the British navy when such scenes occur almost in their presence. It is stated that the admiral and officers of the British fleet have given asylum to the unhappy victims of the barbarity of Cialdini and his agents, and that they have caused the liberation of the priests arbitrarily seized and imprisoned at Castellamare and Sorrento. Who would not rejoice that on this occasion Lord Palmerston should be disappointed in the satisfaction with which he announced that on this occasion Her Majesty's Government would not interfere, even to mitigate the wholesale butcheries of the native population, which are a disgrace to the age in which we live? Whether true British feeling (as I trust we may call it) has induced the naval commanders, guided by what they have seen and heard on the spot, to act in a spirit so different from the ministerial declaration, it is certain the first news received was of a military promenade from the fleet in the direction of Monte St. Angelo, where the advanced guard of the royalists was posted, and this measure was hailed by every revolutionary print as a direct intervention on the behalf of the invaders. It is now said that this landing was effected merely for the purposes of drill; a strange necessity, as the fleet had till then been stationed at Malta*, a British possession, where they could

* Sept. 21. I have just heard that within the last few days a work has appeared at Turin called "*Nuovissima Guida*," written by Massimo Fabi, sold by A. Grillo for three lire and a half, and sent *free* throughout the State. This "*Newest Guide to United Italy*," well merits that name, as "*United Italy*" here contains not only Rome and Venice, but Corsica! and Malta!!

The Emperor Napoleon is in a position to take very good care of Corsica, but *the next time* Lord Palmerston, with a tact peculiar to himself, suggests to any one connected with the Emperor of Austria the sale of Venice, he may well be prepared to receive the retort, "Begin with putting your own price upon Malta, equally coveted by the Italianissimi."

exercise the men as they liked, without observation. This tardy explanation cannot eradicate the general impression created, that this unprecedented demonstration was of a most material character, and of a very hostile aspect on Neapolitan ground. Nor can it obliterate the boastings of the revolutionary organs, who made this an indication of joint action of the British forces with those exterminating chiefs of whom the Minister had in Parliament proclaimed himself the partisan, nor silence the indignant comments of those Powers to whom we have presumed to preach non-intervention. Europe will still feel that when the Ministers who gave these orders had just officially stated that they had "throughout these transactions abstained from any active interference," the lesson taught by their Italian ally was not lost upon them, since they have practically translated into vernacular English the new axiom,—"*COLLA VERITÀ NON SI GOVERNA.*"

A VINDICATION OF THE DUKE OF MODENA

FROM THE CHARGES OF MR. GLADSTONE.

It will be regarded by many as a startling incident that the grave admissions of Italian statesmen should add to the maxim so often quoted, "With how little wisdom the world is governed," the still more *naïf* and discreditable avowal, with how little truth a revolution may be procured and sustained. Yet it has been already mentioned, in the preface to this explanatory statement, when and by whom this avowal was made; and it is now intended to illustrate this avowal circumstantially, by an examination of the charges which have been brought against the present Duke of Modena, and which have proved a practical commentary on this theory of mendacity. There is the obvious reason for replying to these charges, that attention has been attracted to them by recent debates in Parliament, and especially because a minister of the British crown has hastily and recklessly asserted them. Mr. Gladstone, indeed, has been forced to retract that portion of his original statement which involved his worst imputation upon the Duke; but it is clear that he, and through him a large portion of the English public, are still credulous as to the authenticity of the remainder. It will now be shown that these also are equally false representations of facts, and that had these facts been presented in their true light, they would not have furthered the views of the authors of the Revolution. In the colour given to them, and which has rendered them available as charges against the Duke, they have just helped the cause of his adversaries for so long as there were certain impediments to their investigation. It was not possible to answer them at length,

or even at all, in the limited dimensions of a recent correspondence, or in the course of a brief debate in the Upper House of Parliament; but it is now opportune and easy to take them seriatim, to examine them in detail, and to show their falsehood, and therefore their utter futility to influence the opinion of Europe, as contemplated by their fabricators.

There is a further reason for dealing with them in this particular form, that they are themselves select deductions from documentary evidence, and from such evidence only; Mr. Gladstone, or Mr. Gladstone's prompters, having derived them exclusively from a certain compilation, the nature of which it is necessary to describe, as also its origin. As regards its origin, however, a few sentences will sufficiently state the facts. This compilation was made by the adversaries of the present Duke, with the avowed design of stigmatising his government, after that government had succumbed to the pressure of events; that is to say, in 1859, upon the retirement of the Duke before the invading forces of the French and Sardinians, the Provisional Government of Modena, which then supplanted his authority, were prompted in the interest of Piedmont to blacken his memory, and that even of his ducal predecessor. The decree which is printed below*, and which emanated

* THE ROYAL GOVERNOR OF THE
MODENESE PROVINCES,

Considering that during the reigns of the two Archdukes, Francis IV. and Francis V. of Austria-Este, innumerable were the penal judgments without form and legal rule, many the confiscations, the usurpations, and the iniquitous distributions of other people's property:

Considering that civilisation and justice enjoin that the works of evil governments should be publicly exposed, in order that public opinion, giving value to the legitimate wishes of peoples, should pronounce its sentences, against which there is no appeal:

DECREES :—

1. There is instituted a Commission, which shall search, in the secret and public archives, all the records of dispensations and arbitrary acts of the two last Dukes of Modena, of deeds subversive of all civil order,

and of offences against the rights of property and family.

2. The Commission shall collect and publish immediately, and in proper order (*per ordine*), all the documents in the original and with a translation in the French language.

3. The same is empowered, moreover, to institute inquiries and take sworn depositions, appointing for that purpose one or more Chancellors.

4. The Commission shall also propose equitable means of repairing, in some way, the damages done to unfortunate families by the confiscations and arbitrary distributions of their goods.

5. The Commission is composed of Messieurs

Councillor VINCENT PALMIERI, President of the Supreme Tribunal of Revision;

INNOCENT MALAGOLI, Procurator-Royal in the Tribunal of First Instance in Modena;

Marquis HERCULES COCCAPANI-IMPERIALI;

from Dr. Farini, then Dictator in Modena, bears obviously on its face unmistakable evidence of its animus and purport, inasmuch as the Commission thereby constituted is charged to discover among the archives and private correspondence and papers of His Royal Highness anything to which a colour injurious to the exiled Duke and his Government could be imparted. Of the Commissioners themselves who are named in the decree, the responsibility devolved chiefly on two persons, — the President Palmieri, the Liborio Romano of the Duke of Modena, who, in common with his colleagues in this Commission, had sworn allegiance to the Ducal Government, and who now professed to his friends that he undertook this function from fear of being dismissed from his office of President of the Supreme Tribunal; and the Secretary Bosellini, a low-class lawyer, who, notwithstanding his considerable erudition, was for sufficient reasons held in little respect by the Modenese generally. Of the other Commissioners, we learn from a prefatory note to their compilation that, several sought to be exonerated from their odious function, and that two were actually allowed to withdraw before the work was completed—one on the ground of illness, and the other for incompatibility (*incompatibilità*), whatever might be understood to be the meaning of that remarkable expression.

Even the mode in which this Commission proceeded to collect evidence,—its pedantry, puerility, and, above all, its affectation of excessive solemnity in the discovery of trivialities, might be easily put in a ludicrous light to English readers. Thus we come

Rev. CAJETAN CHIERICI, Professor of Mathematical Philosophy in the Seminary of Guastalli;

SEIMI AURELIANO, Substitute Procurator-General of the Supreme Tribunal of Revision;

Advocate JOHN SORAGNI;

Advocate FRANCIS CARBONIERI;

Advocate LODOVICO BOSELLINI;

Advocate TITUS RONCHETTI.

The Councillor Palmieri shall perform the functions of President, and the Advocate Bosellini those of Secretary.

6. The said Commission shall meet every day from 9 o'clock in the morning until 3 in the afternoon, in the office of the First Direction.

7. The Director of Grace and Justice is charged with the execution of the present decree, which shall be

published in the manner required by law.

(Signed) The Governor FARINI.
MODENA, 21 July, 1859.

On the opposite page there is the following "Note.—Some of the members of the Commission having sought to be exonerated, no exoneration was granted, except to the Marquis Coccapani for incompatibility, and to Advocate Carbonieri on account of illness." To which we must add that even those who remained were not very highly recompensed by their employers, seeing that Farini dismissed Palmieri, their president, with a hundred francs or 4*l.* a month pension, when his two years' task was over; a slender remuneration for the ignominy of a violated oath of allegiance.

upon such entries as the following, which exhibits the Commission at their defamatory task, with more than the circumstantiality of an English criminal indictment:—"Done, Read, and Published," thus runs the record of one of their most insignificant discoveries, "*the present verbal process in Modena, in the offices of the said Commission, situated in the precinct of the Ministry of Justice, and, precisely, in a chamber of the principal floor that receives light through two windows to the east, this thirteenth day of the said month, at 7 $\frac{1}{4}$ o'clock in the afternoon, with several candles lighted, in the continuous presence of Messrs. Luigi, son of the late Giuseppe Baroni, of the most excellent Mr. Claudius, son of the living Mr. Titus Pradelli,*" &c. &c. Among the atrocities brought to light by this notarial assiduity, we find moreover such important instances as the following. The Court upholsterer, Carlin, suffering from a diseased leg, had been accommodated with apartments in the Royal Villa of Cattajo, to enable him to take the mudbaths obtainable in the neighbourhood, and applying to the Duke for a repetition of this permission, he received this answer, so startling by candle-light that the Commission records it under "*Chirographi varii* :—" "Granted to Carlin's leg lodgings at Cattajo the same as last year (*Si accorda alla gamba del Carlin l' alloggio al Cattajo e come l' anno scorso*)." Again, one Camillo Andreani, of Rubiera, sent in a petition to be made arranger of the dessert (*ripostiere*) at the Court of His Royal Highness, to which the Duke answered, with a little humour, "Seen and nothing more, as we are not in want of a confectioner, least of all one from Turin." This is solemnly recorded, with or without the aid of candles, under the head of *Diverse regiudicate*, &c. p. 41, vol. ii. A third instance, with which we will conclude these specimens of solemn trifling, is connected with the application of a reputed Polish valet, who pretended to be a descendant of the historical Gonzagas, and who in this capacity, it will be remembered, was tried at Paris for obtaining money in return for spurious orders which he affected to confer. This worthy was in the habit of addressing periodical protests to all the Courts of Europe in vindication of his pretended rights, and one of these protests, directed from London to the Duke, dated 21st August, 1855, was by the Duke endorsed as follows:—"To Count Joseph Forni (Minister of Foreign Affairs) for pastime." This appears on the same page as the order respecting Carlin's leg, and is described as the "Opinion of Francis V. with respect to dispossessed princes." We do not proceed further with this class of political ex-

posures, as probably Farini's friends considered them, though others are forthcoming equally frivolous*, and we limit ourselves to dissipating an impression as regards their collectors which may incidentally occur to candid English readers. The Commissioners of Farini, though petty, were not honest. Their elaborated forms of notarial attestation, their minute solemnities for the identification of documents, their sealings and unsealings, with the particulars of their operations upon doors and locks, might tend to raise an impression of their scrupulous desire to avoid injustice in their appointed task. This impression, however, will not survive for an instant an examination of the substantial results of their labours; nor is it, in fact, easy to conceive a production more discreditable in this very sense to its assiduous compilers than the hodge-podge which is the vaunted authority for the accusations of Mr. Gladstone.

It may not be superfluous perhaps to remark that, in pursuance of a specific injunction to lay to the Duke's charge all the errors and faults of his administration, this compilation should contain but an infinitesimal part of his public edicts and instructions. It was the habit of the Dukes of Modena to make the latter in the form of endorsements upon the multitudinous papers which in the course of public affairs were submitted to them; and an idea may be formed of the comparative insignificance of those selected, when it is stated that every year the Office of the Signet (*Segreteria di Gabinetto*) of the Duke registered no less than 6000 of these ducal rescripts. This compilation, therefore, which purports to cover the entire interval from 1814 to 1858, should properly show a total of something like 360,000. As, however, it contains about 160, and may be assumed to have left 359,840 unpublished, it is obvious that it is not a very valuable contribution to a complete history of the Ducal Government. The inference is that the rescripts rejected by the Commission could not be tortured by any ingenuity into

* For example, the bulk of the compilation is swollen by including in it the most ordinary and minute directions and correspondence of the Duke and his commanding officers while he was preparing for the defence of his States in the spring and summer of 1859. Scarcely a troop was directed to change its quarters, or a sentinel re-

lieved, without the Commission recording its discovery in "the secret archives." But so difficult was the defamatory task, that a large proportion of even the documents printed are striking monuments of the Duke's singular administrative ability and conscientious care.

an interpretation unfavourable to His Royal Highness. On the contrary, in the proportions above mentioned they may have been striking testimonies to the justice, the wisdom, the fatherly care, and the generosity of the Duke and his royal predecessor; and if they were so, we can understand their rejection by a Commission enjoined by Farini to hunt up every scrap of evidence of a contrary character, and such exclusively. It would have been fairer to have judged the Duke's government not by a few extracts, but by the whole series of instructions that constituted its action; and the limitation of the indictment to so very few cases out of so many,—to a proportion which practically could have been hardly appreciable, will strike the candid observer, *en passant*; while in no other sense do we care to lay stress upon its significance.

On the other hand, it is really a matter for strenuous protest that the documents which were extracted out of the mass should have been introduced in a way so calculated to conceal their true meaning. Thus the phrases of Farini's decree would lead to the belief that there was question of disinterring secret and sinister ordinances, in which the abuses of the Duke's Government were shrouded from the public gaze, and which implied a sense of shame by their uniform concealment. To put it plainly, this affectation of disclosing a mystery, or rather a whole series of mysteries of state, was a piece of charlatanry of which the intent was obvious, but of which the effect is small indeed, when we have once examined whether in any sense the use of this phraseology was justified. Thus, in place of the curiosities announced in the conjuror's placard, we have, first of all, a collection of public laws, that is to say a series of documents to which the Government, instead of concealing them, necessarily gave the greatest publicity in their power; for the first volume with few exceptions (among which are five or six newspaper articles and a pastoral letter of the Bishop of Modena), is drawn exclusively from such familiar sources. The second part of this volume contains the decisions of the judicial tribunals or special commissions that were empowered to try cases of high treason; and these, likewise, are documents which (though by their nature excluded from the collections of laws) were nevertheless in their day printed and circulated in thousands of copies. The second volume is a heap of other papers, picked out here and there indifferently from public archives and private communications, with the object of casting a sinister light upon the administration of the Duke, and, as we said, of his prede-

cessor as far back as 1814. These consist not only of rescripts, but of notes, letters, memoranda, and other documents, a great part of which are not final in their series, but are rather observations, suggestions, and interlocutory comments contained in the correspondence between the Duke and his ministers. There was no mystery in these documents, and no intention to conceal their purport, when once their purport was definitively fixed; but they were private for the purposes of the moment, as essential for the discussion of public business, and when once they had passed into the form of public edicts all that was material in their privacy had evaporated. The Duke might complain that his private letters in the course and preparation of his governmental acts, have been shamelessly made public, just as any other gentleman might object to the rude exhibition of his intentions in the embryo form of draft or *deshabille*; but there was nothing substantial which he wished to conceal, and he made no effort at concealment, as his quoted letter testifies.

"If I have not," says he, "the means to supply you with the further documents that you desire, I beg you to take into your consideration that in quitting my states I did not touch the archives, or even the confidential papers of my own private secretary. I did not wish to displace anything which might be necessary to guarantee the personal interests of any one. This would suffice to prove that I did not feel myself guilty of any injustice whatever, and that I did not fear the judgment of honest men. You will recollect that I had ample time to carry off everything, but I then believed a powerful foreign invader, united with an Italian king, would be less disloyal than they proved to be after their victories, the latter stooping by means of his political agents to personal attacks, procured at the price of the violation of the secrecy of strictly private letters."

The Duke left the major part of these papers behind him, because they were public documents, which he had no motive or wish to conceal, and even his private letters, because he was conscious of no injustice. There was therefore no pretence to affect the discovery of any mystery, and this compilation was coloured with a false character from the outset by what may be termed the rhetorical artifice embodied in the decree of Farini.

Even this would have been of less moment had the evidence selected been published in a convenient form to render its scope and meaning easily discernible. On the contrary, it is so jumbled together that it seems as if it had been the deliberate intent of its compilers to complete the mystification which the above decree of

Farini appears to have contemplated. Such a pell-mell of documents and portions of documents, without order of date or other sequence, it would be difficult to parallel in any collection of state papers to be found elsewhere. There is no classification of subjects, no consecutiveness of arrangement as regards any one subject; and, so far as regards even simple chronology, from 1814 to 1858, and from 1858 to 1814, these documents are presented in every variety of disorder, and are edited as you edit bricks by tilting them out of a waggon. This confusion would be remarkable anywhere, but it is especially remarkable on the part of gentlemen who tell us the number of windows, with their relations to the compass, and even the number of candles which shed a light upon their scrupulous explorations; and it is not too much to infer that this confusion was a work of design on their part, that they appreciated its inducements to loose accusations and its very serious impediments to their complete refutation. Where any man might complain if he was judged upon such evidence, the governor of a state may especially complain that the acts of his government should be tested by fragments torn away from their explanatory context. Still more, when these fragments are deliberately inverted and arranged in a *puzzle* by his political enemies, has he a right to protest against this perversion of political justice.

Out of this chaos, so exceptional if, as we may infer, it was the offspring of design, the charges of Mr. Gladstone were exclusively derived, and it is some excuse for his admitted and even for his other mistakes that they have come from sources so confused as to be almost incomprehensible. But it is time to state what these charges are, and in so doing we employ Mr. Gladstone's language as reported in Hansard under the date of March 7, 1861.

"Now, Sir, unfortunately there is, at least there was, a deplorable solidarity among the Italian Governments, and as sometimes in a miniature you see represented with the greatest force the features of the countenance, so there was one of the smallest of these States, the most insignificant of these Governments, which perhaps presented the fullest and truest development of the system—I mean the Government of a sovereign to whom no allusion has been made by my hon. friend the member for Dundalk, the late Grand Duke of Modena—one of those whom, of course, we ought to regard with pity, and even with veneration, as a righteous ruler driven out from his States by the contemptible intrigues of Victor Emmanuel. Well, Sir, here are again a set of original documents. Perhaps the hon. member will say that they are forgeries. [Mr. Hennessy: Hear, hear!] I have never seen the original manuscripts, but I hold in my hand the published book, and no contradiction of that book has to my knowledge or belief ever appeared. Let us have a few specimens of the

mode of governing in that country which was above all others a paternal State, which was the pet State of the Austrians, and was steadily supported and uniformly countenanced by the Pope. The Pope, who has the thunders of the Vatican ready to launch at the head of Victor Emmanuel, and to brand his crimes, never had any words except those of courtesy and kindness for the Duke of Modena, to whose deeds I am about to refer. These are documents, of a great number of which I have not been able to make myself master,

FIRST CHARGE. but I think that the specimens which I shall give you will be sufficient. The first which I shall cite was written in the year 1853, a time of profound peace. It does not mention whether the persons referred to were criminal offenders, but I have no doubt that they were. This document is signed 'Francesco,' and dated 'Reggio, May 22, 1853,' and is addressed to the Minister '*di Buon Governo*,' which I may translate the Home Office, although my right hon. friend the Home Secretary, who I am glad to see is not in the House, would not thank me for the comparison. The decree refers to a batch of 254 criminals, and orders that they shall all be sent to another prison, and then continues, observing that about one-third of them, who have received but very slight sentences from the tribunals, are to finish their sentences within the current year, 'We decree by our sovereign authority that none of them'—eighty or ninety—'shall be restored to society until they shall have given a proof of reformed conduct in the place where they are to be confined, and shall have acquired some trade.' This is the system of government with regard to the security of the people as respects their personal rights. [Sir George Bowyer: The offence?] The document does not state the offence. My case is that they were offences that had been tried and judged not by Italian juries but by Italian judges; not persons of opulence and station, like those of this country, but receiving pittances not sufficient for a moderate livelihood, and holding those pittances at the absolute will of the Crown. The Duke of Modena said, 'I see that these sentences expire within the year, and therefore I decree that the imprisonment of the whole

shall be prolonged until the parties shall individually give satisfactory proofs of reformation.' Again, a young man of seventeen, named Granaj, of Carrara, was found guilty of murder or manslaughter. The law of Modena does not permit capital punishment

under the age of twenty-one. After the trial the Duke of Modena sends forth an edict declaring that notwithstanding the law the young man shall be executed.

[Sir George Bowyer made an observation which was not heard.] The hon. gentleman seems in some degree acclimated. In another edict I

THIRD CHARGE. find that the Duke is nauseated by reading three judicial sentences, and his reason is that the crimes are so lightly treated that the punishment is worth nothing at all. The Duke is even more nauseated by finding that previous good conduct has been alleged on the part of the criminals.

The third thing that nauseates him is that a man named Felice Libbra, who had been the accomplice of some criminal, should be let out of prison when he had exhausted the whole term of his imprisonment. In this case the judges were rebuked and a new

FOURTH CHARGE. trial was ordered. I do not wonder that a smile of incredulity passes over the lips of hon. gentlemen. It ought to do so. It would be wrong that in this age and in this part of the world one should be too ready to believe that such things could take place. But I quote official documents, which I offer for the inspection of hon. gentlemen opposite. I have told the House of the case of a criminal

who did not come under the operation of capital punishment, but in whose case the Duke made an *ex post facto* law for his execution. Here comes

FIFTH CHARGE. a converse case of a law of remission that is not allowed to be retroactive. The Duke, writing to one of his ministers, describes his affliction relative to the case of some criminals who were entitled to the operation of a mitigating law, and he issues an edict addressed to his 'Dear Cocchi,' its object being to declare that the mitigating law shall not be applicable to that crime. Here is another case in which one citizen was killed

SIXTH CHARGE. and others were wounded in a row between the townspeople and the military at Carrara. The order to fire was given, not by the commander of the troops, but by a soldier, without the order of the commander, who was on the spot. The Duke of Modena issued a public edict, stating that, having looked into the case, he was of opinion that the soldier was perfectly justified in firing without the order of his commander, who, he added, probably deserved a rebuke for not having given the order to fire. I will trouble the House with one more document, and if ever there was a document that deserves to be transmitted for the study of posterity it is this. It is a letter of congratulation addressed by the

SEVENTH CHARGE. Duke of Modena to his Minister of the Interior. I will state its purport in English. The Duke states that, having examined the list of those admitted to philosophy and the superior faculties in the University from 1848 to 1853, 'we have remarked with genuine satisfaction the decreasing number of admissions.' He says that these admissions had previously gone to an excess most pernicious to society. 'We recognise that these results are owing, not only to the method of examination and the firmness of the professors, but particularly to the firmness of the Minister of the Interior, who is persuaded of the evils that flow from an excess of students and doctors. Wherefore we exhort him, as well as all the professors, to continue always in this salutary path of reducing more and more the number of those who are to be admitted to the faculties and philosophy, and particularly to the faculty of law, which still continues in excess.' This is followed up by a positive decree that there shall only be two examinations in the University, that only 150 students shall pass the first, and 80 the second. This is to me a novel view of civil service examinations."

Now, to understand these seven charges, or, as we may term them in this case, these "seven deadly sins" imputed to the Duke of Modena by Mr. Gladstone, and especially to understand their true explanation, it is requisite, as a preliminary, to give the reader some information of the special circumstances out of which they arose. Nor is this alone sufficient, when misconception on so many points, as regards Modena and its government, is evidently at the root of these several accusations. It is clear that, practically, little is known of the Modenese territory, its resources, prosperity, or the variety of its institutions; that misconstruction prevails as to the condition and inclinations of its inhabitants, and still more as to the character and capacity of its late sovereigns, the extent of their share in the administration of their Duchy, and the

kindly sentiments of their subjects towards them. It will not defer long the explanation intended, if it is prefaced with a few brief particulars upon these points, while such particulars will really help to answer the Gladstonian charges, or to render their refutation more precise and satisfactory.

As regards certain misstatements and misconceptions of the very crudest class, it is necessary even to call the reader's attention to the ordinary information of the geographical authorities. Thus, when Mr. Gladstone makes the assertion that a state of siege was proclaimed in Modena, and when this was true of only a fortieth part of that Duchy, it is really desirable, by way of dispersing the fog, to define geographically the extent and limits of the ducal territory. The Duchy in question, previous to the ephemeral map of 1861, was situated to the eastward of Parma, and extended from the south bank of the Po to the crest of the Apennines; beyond which the Duke also possessed the Duchy of Massa-Carrara, which mainly lies in the glens and highlands on the western declivities of that mountain chain, and extends on the south-west to the Tuscan sea.

The territories that compose the Modenese or Estensian States, may be divided into three parts, plain, mountain, and sea-coast. The first, rather extensive, is part of the vast Italian valley that descends from the chain of the Alps to the Adriatic; the second, following the line of mountains that divide Italy down to the extreme point of Calabria, forms about two-thirds of the State; the third extends for a short distance along the shore of the Mediterranean.

The Modenese lowlands, which constitute the first of these, are of great fertility, and are the chief seat of industry and territorial wealth. This district includes a great part of the provinces of Modena and Reggio, and nearly two-thirds of the whole population of the State. It is watered by several navigable streams, the Enza, the Crostolo, the Secchia, and the Panaro, and by a vast system of artificial canalisation.

The highlands and glens of the outlying Duchy of Massa-Carrara are remarkable for the beauty of their scenery, and their quarries of white statuary marble. The strip of lowland which is the fringe of this district, stretching along the Mediterranean, is chiefly alluvial, and is bounded to the south by the sea, and to the north sheltered by the Apennines. It is a district exceedingly rich by nature, and its fertility has been doubled by the canals for irrigation

constructed by the Dukes Francis IV. and Francis V. Meadows and rich fields, mulberry plantations and vineyards, have now taken the place of what was uncultivated marsh not many years ago.

In 1855 the population was thus divided :—

Province of Modena	209,499
„ Reggio	168,487
„ Guastalla*	50,466
„ Frignano	59,763
„ Garfagnana	38,127
„ Massa and Lunigiana . .	74,334
Total	600,676

The chief cities and towns were :—

Modena, population	31,052
Reggio	18,684
Carrara	8,156
Finale	4,912
Carfi	4,576
Massa	4,022
Mirandola	3,119
Guastalla	3,018
Castelnovo di Garfagnana . .	2,934
Correggio	2,592
Fivizzano	2,093
Pavullo	1,025
Total	86,183

The division of the population of the territorial superficies of the State, is for every square kilometre :—

Cisapennine plain	155.23
Highland parts	58.61
Transapennine plain and sea-coast . .	438.20

The public administration was divided and apportioned under the following departments :—

1. Ministry of Foreign Affairs.
2. Ministry of the Interior.
3. Ministry of Police, or Public Surety (Buon Governo).
4. Ministry of Grace and Justice and Ecclesiastical Affairs.
5. Ministry of Finances.
6. Supreme General Command of the Army.

* The Duchy of Guastalla fell to the Duke in 1847, on the death of the ex-Empress Maria Louisa, in virtue of a clause in the treaties of 1815.

The criminal tribunals were thus distinguished :—Revision or Cassation ; Appeal ; First Instance ; Giusdicerze (for minor cases), and vicegerencies, which last were abolished by the new code that came into operation in 1856.

The jurisdiction of the Supreme Court of Revision in Modena extended over the whole State. In Reggio and Massa there were subordinate courts of appeal ; subordinate to these, in Modena, Reggio, and Carrara, tribunals of first instance.

The Giusdicerze, of three classes and subordinate to the respective provincial tribunals of first instance, were numerous. The synopsis which is subjoined will display at a glance their relations of dependence and mutual connection.

THE JUDICIAL ORGANISATION OF THE MODENESE TRIBUNALS.

Supreme Tribunal of Revision in Modena.	{	Tribunal of Appeal in Reggio.	{	Tribunal of First Instance in Modena.	{	6 Giusdicerze of Class I. 1 of Class II. 4 of Class III.	
		{		Tribunal of First Instance in Reggio.	{	4 Giusdicerze of Class I. 3 of Class II. 3 of Class III.	
	{	Tribunal of Appeal in Massa.	{	Tribunal of First Instance in Carrara.	{	4 Giusdicerze of Class I. 1 of Class II. 4 of Class III.	

The plain of Modena, which constitutes the first district, and which comprises nearly two-thirds of the whole population of the State, is a beautiful gardenlike country, overflowing with the riches of natural produce, for which the navigable canals and rivers afford means of transport as far as Venice. This district, in which not an uncultivated spot of earth can be observed, produces oil, wine, every description of corn, rice, hemp, cattle of all kinds, fruit in great abundance and of very fine quality, silk, marble, &c. Landed property, of all the most natural and the most secure, is the solid basis of its wealth ; its products are valuable, the taxes imposed upon it were light, and there was nothing to prevent its owners easily becoming rich ; in fact they were in a position of quite exceptional prosperity, while the lot of the peasant who cultivates the soil was also one of ease and comfort, provisions, from the fertility of the country, being exceedingly cheap.

The whole country was divided into provinces and communes, each province having its governor or directing delegate.

The Dukes of Modena maintained a little army composed of

their native-born subjects, about 1750 strong in time of peace, but which increased to about 4000 strong when on a war footing, and the fidelity of which, on every occasion when troubles arose in Italy, has been signally exhibited. In the various movements that have agitated the Italian peninsula, from time to time, between 1821 and 1859, these troops of Modena have always remained loyal to their military oath; nay, they accompanied their sovereign into exile: their ranks are still filled up through the steady attachment of the peasants of the Duchy, and they are still officered by the Modenese nobles and gentry.*

The government was of that patriarchal kind in which the sovereign, like a father of a family, was accessible to all, and the last and highest resource for the wronged or the suffering of his subjects. Reigning over a small State of 600,000 inhabitants, the late Dukes of Modena gave audience twice a week for three or four hours, at which the poorest of their subjects who had previously sent in his name, could present himself, and, with that simple and natural courtesy that characterises the princes of their house, they were ready to listen to him if he had anything to say to them or anything to ask for.

The present and last Dukes of Modena were reckoned among the wealthiest individuals in Europe, having inherited from divers ancestral sources a vast accumulation of private property, only part of which lay within their own dominions. In them centred the

* The present Duke and his predecessor had an honorary guard of nobles (*guardia nobile d'onore*), which took its origin in a spontaneous manifestation of the *élite* of the different provinces and towns of the Modenese States in 1814, on the restoration of Duke Francis IV. to his inheritance. This corps of gentlemen is bound by no oath, but has never failed in its fealty since its origin to this day. All its actual members remain true to their sovereign and their device *onore e fedeltà*, and as many as the Duke permitted have remained with him absent from their families and homes. An equally remarkable testimony to the stability of the Duke's government and the loyal attachment of his people towards him will be found

in the organisation of the rural militia, referred to in the despatch of Lord Normanby of August 23, 1856, and which is printed in Appendix B. This rural militia, to the number of 7500, was composed exclusively of what we may term the yeomanry of Modena, who served without any pay. This institution had its origin in a spontaneous offer after 1831, and it was such a mainstay of the Ducal government, that in 1848 the Revolutionary Provisional Government lost no time in disbanding it and requiring its arms under penalty. The Duke, taking a lesson from his enemies, reestablished it on his restoration, and had reason to the last to be satisfied with its efficiency and zeal.

inheritance of the Cibo, who reigned in Massa-Carrara, the fortune of the Este Dukes of Modena, and, to the present Duke, through his mother, descended a fourth of the allodial property of the old Royal line of Savoy, which became extinct in 1831. In consequence of the liberal use which they made of these advantages the presence of a little court like theirs, spending freely and benevolently an ample income in the promotion of art, science, and the humanities, was a greater aid to civilisation and local culture than modern theorists are willing to admit; and the old Italian proverb which contrasts the "Principini, palazzi e giardini," with the "Principoni, fortezze e cannoni," has been illustrated in their case, and is keenly appreciated at this very moment by the Modenese people.

A picture, almost idyllic, of the relations of the Dukes to their subjects, is contained in a popular description of the numerous institutions which were the products of their public spirit and fostering care. This description will be found in the work of a German writer who had closely studied the Modenese State previous to the death of Francis IV., the father of the late Duke, and who, allowing for a certain pedantry of statement and even a tendency to hyperbole, is evidently an accurate and a reliable witness.

"Every stranger," observes this writer, "who visits Modena is amazed at the great number of educational and charitable institutions which he finds there, all of them capable of serving as models both as to their organisation and maintenance.

"From the commencement of the reign of the Duke up to the present date there have been no less than fifty public edifices either enlarged and suitably arranged, or newly built by him from the foundations. The city of Modena, in the midst of its very ancient architecture, is continually in process of adornment with handsome new edifices.

"Modena possesses an University, an Academy of Arts and Sciences, the printed annals of which afford the best evidence of its continual activity in the process of scientific investigation." The reader is instructed to remark "how many men of distinguished ability are there engaged in the higher branches of science especially, and what rich resources for its cultivation are there placed at the service of their spirit of research.

"He also finds an Academy of Fine Arts, for sculptors, painters, and engravers; extensive halls which are filled with the best models for all those branches of art, and where are likewise exhibited numerous meritorious works of the scholars whose talents have been aided and developed by this institution. Malatesti and Rossi are among the number of its recent painters who are deserving of honourable mention. The Observatory is tolerably large, and furnished with good instruments; while the Director, Professor Bianchi, is a very able man.

"The Archducal library contains a rich assemblage of not less than 100,000 volumes and 3000 of the rarest manuscripts.

"The collection of pictures, arranged in a lordly enfilade of rooms of the splendid palace, is numerous and costly; still there is not among them a single piece by Correggio, of whose works none exist in the whole of Modena.

"There is an Academy and School of Music maintained by the Court; a Philharmonic Society; a Cabinet of Natural History and Chemistry; a cabinet of over 25,000 medals, presided over by the learned Abbé Cavedoni, whose services have been so great in the elucidation of Modenese antiquity. These antiquities have been collected by the Archduke's orders, having been previously scattered here and there exposed to injury or destruction. They are arranged in a museum (*Museo Lapidario*), and illustrated in learned disquisitions as well by the director, Cavedoni, as by Dr. R. Malmusi.

"The distinguished merits of the house of Este for centuries in their fostering care of art and science, have been exemplified by the reigning sovereign in that solicitude for such matters which is an heirloom of this exalted family. Archduke Francis does not limit his encouragement and aid of talent to his own States, but he is accustomed to send abroad at his own charge youths of promise, in order to afford them the opportunities of completing their training in the branch to which they may have devoted themselves.

"How greatly the Duke takes to heart the education of the people is shown by the actual institutions which exist for this purpose. In addition to these, normal schools of female education are provided in three convents of women. With this object also the female school at S. Paolo is almost entirely supported at the Duke's cost, for all descriptions of women's work, such as spinning, knitting, sewing, linen, wool, and silk weaving, and in this school there are more than 100 scholars under the especial protection of the Archduchess. The public send work in to the practised scholars, and the payment for this is either given to the individual girl, or else kept in a kind of savings' bank for her and handed over to her on leaving the institute, an arrangement which is of great service to the girls when they begin the world on their own account.

"Similar to this is the educational institution for boys, called the Orphan House of San Bernardino, or that of the Royal Establishment of S. Philip-Neri. Orphan boys, or such boys as through the bad conduct of their parents run the risk of abandonment, find admission and maintenance in that institution, receive instruction in religion and in the ordinary utilitarian branches of education, remaining there until they are fit to embrace some calling. There are at the present moment 150 scholars there.

"A very remarkable establishment is the militarily organised School of Artisan Pioneers. Probably there is not in any other State an institution to be compared with this in its salutary effects upon the poorer classes, by which every pretence of the impediments to obtaining a maintenance, while learning a trade, is completely removed; and to the pupil himself, by the completeness of the instruction and the regular training he goes through, while he is protected from all the cruelties which lads have often to endure in private apprenticeship, the work is rendered comparatively light and easy"—easier in all probability than an English reader will find the sentences of its worthy but long-winded commentator.

"The Pioneer School admits young lads for instruction in handicrafts which they are free to choose for themselves. They are united into a distinct

corps, and have a prescribed period of service, during which they are continually occupied in the exercise of the trades they have learnt, and are employed in the public buildings and other works for which their special training has qualified them. Among the edifices which are monuments of their industry and capacity are their own large and extensive dwelling, and the Academy of Nobles. Thus, from what we have stated hitherto, it will be seen how easy it is in Modena for the industriously disposed poor, through the aid of these institutions, which so exactly embrace their requirements, to attain to a certainty of employment and subsistence. If a boy has received in his early years his maintenance and preliminary instruction in the institute at S. Bernardino, he only needs to pursue the course of mechanical instruction in the Pioneer School, in order to be maintained and, at the cost of his sovereign, rendered useful to himself and to society (*brauchbar*) for life. How can any one, seeing before him such institutions, the mutual complement of each other, deny the benevolence and beneficence of this plan of education, which is no mere patchwork, but a complete and perfect system? By its agency is provided a remedy against mendicancy, the neglect of parents and relatives, and also against idleness, as far as it is given to human power and foresight to apply such preventives. Moreover, most readers will probably share with me the impression that the Sovereign of Modena is not only animated with the idea of benefiting the State in a temporary sense by such institutions, but that, penetrated with a manifest love of all that is good, he entertains the loftier design of elevating the standard of the rising generation, and so works for the advantage of distant posterity. The realisation of this intelligent and high-hearted (*hochhertzig*) plan owes not a little to the fact that his will is absolute. Modena is a State which, considering its constitution (*Verfassung*), affords a proof of how very little the weal of nations consists in the forms of their governments. All the good that exists there would not have been called into existence or extended so widely, so rapidly, and so conveniently, if it had not been the work of one will, unhampered by other human control, but all the more God-fearing and God-obeying, and, as we must certainly not omit to remark, a will most uprightly bent upon the attainment of good.

"After these remarks, which seemed to us not to be superfluous, we proceed with our narrative. In order to implant the seeds of virtue from the earliest years in the youthful mind, and weighing the important mission of woman, the Duke founded a kind of nursery for infant girls, in which they remain during the daytime, and are provided with dinner and such instruction in religion as is suited to their delicate age. This institute also, in which there are more than 300 children daily attending, is maintained at the Duke's personal charge.

"For the education of the noblesse provision is made in a College of Nobles, in which young persons of condition receive instruction in languages, arts, and sciences, and in bodily exercises, riding, &c., suitable to their rank, upon payment of a moderate pension. Even foreigners are received in this institution, and the famous poet, Pindemonti, is an *élève* of this college, to which many statesmen and honoured men of learning owe their early formation.

"Besides this college there is also an Academy of Nobles, which in its organisation much resembles the Theresian Academy, for persons of gentle blood, in Vienna. The Duke founded it in 1821, and destined it for the reception of noble youths, to complete their education in the higher military and civil studies, after the previous completion of their philosophical course. They are admitted either on payment or gratuitously, and the plan of education pursued there in-

cludes a provision to enable them to travel in the neighbouring States, after a stay at their country-seat at Scandiano, with the design of affording them opportunities of enlarging their knowledge. Of this also the Duke bears the charges. After three years' studies they customarily enter the Noble Guard (*Guardia nobile d'onore*), an honorary and unpaid corps. But if any of them should distinguish himself by talent and studiousness, he is employed in the service of the Court or of the State.

"The list of meritorious scientific institutions includes moreover the houses of residence for medical and law students, and particularly the latter, not merely in Modena, but in Reggio, Mirandola, and Fanano; the episcopal seminary and the seminary for young citizens, the riding school, the veterinary school, and many others."*

This German writer says that, over and above the educational institutions already mentioned, there was a Jesuits' College in Modena, at which about 400 scholars, not reckoning the boarders, were instructed; and another at Reggio, attended by about 370 pupils.

He goes on to say:—

"To the benevolent institutions for suffering humanity belong the vast General Hospital, with its lofty, airy, and very practically arranged wards, and a dependency that was added to it in 1822 for surgical operations. The Medical College, or House of Residence, is established in a handsome edifice, erected by the Duke likewise in 1822. The term of study is five years.

"For the poor there are two almshouses. In one of these, which is destined for people quite incapable of labour, called the Casa di Ricovero, there were 270 individuals. Each individual costs daily 50 centesimi (about fourpence). In the other, founded by the Duke in 1824, the idle, who prefer to stand lazily in the streets and beg, are provided with a fixed aid, and at the same time are compelled to manual labour, for which each individual is duly paid. Deserving of mention are also the Orphan House, the Retreat for Penitents, the Dumb Institute, the Loan Bank." "Many of the institutions here named," adds the German editor in a foot note, "are not confined to Modena alone, but are distributed proportionately throughout the Duchy by the fatherly generosity of the Duke, and are yearly increased and enlarged."

"But we may not pass over in silence," continues the explicit narrator, "an institution which of our knowledge is unparalleled in Europe. We mean the meal and corn magazines, which the Duke established for the poorer of his subjects, and for which the evil-minded style him a monopolist. The circumstances from which they arose are as follows:—In the summer months there sometimes prevails in the Modenese country such a drought that the water supply is inadequate, and this the more easily occurs from the supply of water being expended on the irrigation of the meadows and the rice-fields, which require an

* Since the German writer penned these lines some of these houses of residence were broken up by the revo-

lution of 1848, &c.; and have not been yet restored.

almost marshy culture. When this severe visitation happens, the countryfolk are under the necessity of carrying to distant mills the corn which they want converted into meal for their domestic use, and so experience considerable loss both in money and time. In order to remedy this evil and aid the needier classes, the Duke erected in each district, wherever there appeared more particular need of such, meal magazines, which, in the first instance, he had filled at his own charge, and of which he made a present, including the supply of meal that was laid up in them, to the respective communes. So in time of need the people have recourse to this store of meal, and receive forthwith what they require, upon delivering in exchange for the meal the corresponding quantity of corn, deducting only the usual payment for grinding. The commune then has the corn thus collected ground in the favourable season, and again lays by the meal for the same object as before, of dealing it out again in time of scarcity. This first class of magazines do not, as is evident, belong to the Duke, but to the communes; yet the institution is purely and solely a product of his inventive care (*Fürsorge*) for the welfare of his subjects.*

"The other class of magazines is, however, really the property of the Duke; and it was created in this way. To provide in future against the scarcity of corn that was so severely felt, and especially in the mountains, in the barren years 1816 and 1817, and in order to be able to afford immediate aid for pressing want in the highlands; moreover, to prevent the inordinate increase in the prices of corn and meal in years of sterility, this benevolent sovereign bethought him to lay by the superfluity of good years for the season of need. He caused for this purpose great stone repositories to be made, and distributed them among the various highland communes. In these he has constantly added the quantity of corn or chestnut meal that is requisite to keep them full. He was not discouraged because at the outset the greater part was spoilt by unpractical manipulation, and a considerable loss thus accrued to him, but continued in the undertaking he had begun. This meal is not merely sold, but, as in a loan-bank, lent, of course *gratis*, upon pledges; but it is not paid back until the next harvest time.

"There is still a third class of corn magazines, which however are just as little the Duke's property as the first. They resulted, however, from a direction of the Duke of the following tenor: that a certain sum shall be divided proportionately among all the communes out of the public treasury, to enable them to purchase, from those that have corn to sell, grain (*Gebreide*) or Indian corn (*türkische Weizen*) at a fixed and somewhat reduced (*herabgesetzt*) rate. These do not however become purely State property, but are to be preserved in granaries specially set apart, and at the risk and responsibility of the State, though left at the free disposal of the various proprietors, who at any time may, upon repayment of the sum they have received for their corn, take it back, without any indemnification either for the interest of the money or

* Subsequently to the time when this was written the Duke munificently presented these magazines to the public. In fact, he only retained them provisionally, while experimentalising to make their organisation perfect and

permanently useful. Will it be believed that, among the documents printed to discredit the Duke's government, this benevolent decree of gift is included?

for stowage. The proprietors, however, are bound to replace the old corn with that of the fresh harvest, unless they prefer to consider it as sold. By this arrangement the proprietors of grain had the advantage of obtaining a certain price for their wares, without sacrificing thereby the chance of a possible gain from an increase of price; they were placed in a position to pay the land-tax, without being necessitated to sell their grain at a sacrifice; they were relieved of the burden of garnering their produce, and from the danger of not finding a purchaser; finally, they could employ the equivalent they received, in place of what would otherwise have been so much dead capital, to advantageous use in other undertakings.

“ Nobody can deny that these institutions bear the stamp of a fatherly care for the welfare of the subject, and that they afford a proof how inventive is the love of the Duke for his people.”

Yet we must add, in bidding farewell to the voluble but trustworthy German, that his observations were made, as we have already stated, in the days of the present Duke's predecessor, who was the author of these gentle and paternal arrangements. But they are substantially applicable to the state of things which obtained in Modena down to the date when the present Duke was compelled to quit his capital, not in deference to any discontent in his dominions, but solely and exclusively from the pressure of external force. Of the conspiracy which was fomented by Piedmont against him during his reign, and of his dignified and above all humane dispositions for the maintenance of his authority, we shall hear presently. But the normal action of his government, which concerns us here, was just of the character already described, and, though it may not satisfy the ideal of a certain school, it was immeasurably beyond the reach of the Duke's present calumniators.

The reader will hardly require to be reminded that the Duke was an absolute sovereign; furthermore, that, being the absolute sovereign of a small instead of a large State, his opportunities and obligations were altogether exceptional. As the entire population of his State amounted barely to 600,000, it was really possible for him to exert a personal superintendence over all the administrative arrangements of his realm, while, on the other hand, he was besieged by appeals to exercise his functions, which, in virtue of the exceptional facilities he possessed, it was his duty as well as his desire to entertain. The reader accustomed to the action of administration in a great country, such as England or France, will have a difficulty in comprehending the capacity of an individual to deal with such a variety of details, and many of these such minutiae. But Modena was a State in which minutiae were proportionally

less minute, in which they could hardly escape an observant eye, and in which, if they were passed unheeded by an indifferent one, innumerable voices were clamorous for its attention. Under these conditions, the Duke, like his predecessors, was solicited, was induced, nay, was even compelled to interfere, and the only question here is the animus of his intervention,—was it dictated by a humane and liberal spirit, and was it, or was it not, of a character to be regarded by him now with honourable pride? The Duke might point to the many positive evidences that his government was wise, just, and beneficent; that it was gentle and tolerant almost beyond precedent; and that, under its sway, the Modenese enjoyed as large a measure of comfort and prosperity as has fallen to the lot of any people at any stage of their history. Let us only remark the testimonies respecting it which are contained in the correspondence of vigilant observers, and some of which is printed in Appendix B.

“The people of Modena,” says Lord Normanby, then her Majesty’s representative at the courts of Central Italy, “are the lightest taxed in Italy. . . . The Duke of Modena has a very large private fortune, with which he deals liberally for public objects, though simple and unostentatious in his private habits. *This furnishes one of the most successful instances of personal government that ever came within my knowledge.*”

In the same despatch, the same writer observes:—

“I must have mentioned to your Lordship, on the occasion of my last visit to Modena, that there is something very prepossessing in the simple, earnest manner of the Duke. I hardly ever met, in any rank of life, with any one who more surely conveyed the impression of a thoroughly honest man, who meant to do his duty; and although he has been found stern upon occasion, his love of justice has become proverbial amongst his subjects.”

In a very significant despatch, dated November 25, 1857, we are told by the same official authority of the difficulties which the Duke encountered in attempting to develope municipal institutions among his subjects. And we find throughout this correspondence traces of another difficulty, the difficulty contrived for him by conspirators of twelve years’ standing, and who appropriated one corner of his territory as a convenient laboratory for the murderous machinations of their secret societies. Nevertheless, when the opportunity of insurrection came, as the Duke himself observed in 1856, in that which he had always considered the only disaffected corner of his States, the district of Carrara, there

was not found a single traitor ready for action. On the other hand, the Duke had to struggle for ten years against this conspiracy, yet so light and lenient were his measures of repression, that during his whole reign there were not more than five persons who received capital punishment for all the crimes that were perpetrated in the whole of Modena.

We cannot of course attempt, within the limits of this pamphlet, to write a history of the Duchy of Modena, its home administration, and its foreign relations during the thirteen years of the present Duke's reign. But we can touch in succession a few leading points which may disabuse the public mind of some of the prejudices with which it has been so laboriously inoculated, and we may so prepare it to examine Mr. Gladstone's specific charges with the impartiality of a judge rather than with the bias of a partisan.

The Duchies of Modena, Reggio, and Mirandola were ancient male fiefs of the Germanic Empire, and had passed for many centuries in the male line of the house of Este, when Duke Hercules III., about the middle of the last century, being the last male of his race, chose the Archduke Ferdinand of Austria as husband for his daughter and heiress, and nominated him his successor, subject to the requisite sanction of the Germanic Diet. This arrangement was made by treaty on the 15th of May, 1753, and on the 5th of June following was ratified by George II., King of England, as chief of the house of Este, from which the house of Brunswick derived its origin. In 1771 the sanction of the Germanic Diet was given in favour of Archduke Ferdinand and his descendants. Francis IV., the late Duke of Modena, was the son, and the present Duke, Francis V., is the grandson of that marriage. The Duchy of Massa-Carrara, the ancient inheritance of the Cibo family, remained in some measure a distinct possession until the death of the mother of Duke Francis IV. in 1829, and its laws remained for some time afterwards distinct from those of Modena. It may not be without interest for an English reader to remember that the present Duke Francis V. is by his mother the eldest lineal descendant of our kings of the house of Stuart, being the representative of Henrietta, sister of King James II., whose posterity were, as Catholics, excluded by Act of Parliament from the succession to the crown.

Among the acts of the house of Brunswick few have been more generally applauded than the recognition, by our Kings George III. and George IV., of the claims of misfortune and relationship in the person of the Cardinal of York, the head of the Stuart family.

The only claim made on behalf of the Duke of Modena, the eldest of the lawful blood of our own exiled dynasty, is that we should not join his calumniators, nor lightly credit every wild story invented by his enemies.

Under the father of the present Duke, in a reign of thirty-two years, from 1814 to 1846, there were but eight executions for political offences and for capital crimes. In the first eleven years of the reign of the present Duke there was not one execution. In the two years which preceded the revolution the five executions for atrocious murders took place in Carrara; and they are the only cases, as we stated, in which the punishment of death has been inflicted by the Duke.

The finances of a country are considered a measure of its prosperity. When revenue increases without imposing new taxes or making old ones more heavy, it is considered a proof that a state is not badly governed. Till the end of 1845 the revenues of Modena were 6,000,000 francs, and in the last years of Duke Francis IV. they had increased to 7,000,000. The bad harvests of 1846 and 1847, and the revolutionary disturbances in 1848, were injurious to the finances. After 1850 there was a large increase in the revenue, and it was mainly due to the progressive improvement in the circumstances of the country. New taxes to the amount of 642,000 francs had been imposed, and 636,000 francs were the revenue derived from newly-acquired territories. These two sources would therefore account for an increase of 1,278,000 francs; but the increase from 1850, till the overthrow of the Duke's throne, was an increase from 7,000,000 to 11,000,000, of which 2,722,000 francs can be referred to no cause, except the advance of the population in wealth and comfort under the Ducal Government.

It has been assumed by some persons, that though the material well-being of such of the Duke's subjects as chose to have no political aspirations was cared for, political offenders were treated with undue severity. These are the ideas which have been assiduously propagated in England, but nothing can be further from the truth. The Duke not only amnestied but retained in office the very men who had taken up arms against him in the rebellion of 1848, and after his triumphant return amid public jubilation nobody was deprived of either property or liberty. Some five-and-twenty ringleaders were alone excepted from his clemency, but their only punishment was a prohibition to reside within the Modenese frontiers. They dwelt in Piedmont, the land of their

predilections, and several of them were permitted, on applying for leave, to revisit their homes for the transaction of private business. No political trial was instituted on account of the events of 1848. Between 1848 and 1859 only two political trials, properly so called, took place: one of a certain Rizzati, who attempted to take his sovereign's life, and was sentenced to twenty years' galleys; one of a certain Montanari, who was implicated in a conspiracy against all the sovereigns of Italy except the Sardinian King. Montanari was condemned to the galleys for life. The Duke mitigated the sentence to ten years, and after one or two years had passed commuted it to exile.

Of the Carrara trials much has been said, but the offences of these criminals were in reality private vendette, and the culprits were all of obscure condition. It is quite true that the assassins were found to belong to the secret society of La Gioventù, which is an inferior branch of the Revolutionary Society, and it is true they were leagued by oath to deliver one another mutually from *their own enemies* and from *spies*; but among their victims there was not a single public servant, nor even a single secret agent of the Government. It was at the instance of the population and of the commune that the state of siege was proclaimed in Carrara. They called for it to free themselves from a reign of terror and a system of assassination that had become insupportable.

A number of subordinate condemnations, and the infliction of capital punishment in the five cases of murder above mentioned, restored tranquillity from the beginning of 1858; for no more assassinations or crimes of blood took place after the introduction of the state of siege, which, moreover, was raised in July, 1858, without any honest citizen having experienced any hardship under it.

If we were to look for proofs of the Duke's anxiety and care for his subjects' weal and for the progress of his States, we should find them in the numerous public works carried out under his orders, and in his wise ordering of the forest tracts, by which vast mountain wastes were made to yield profit to the State, and a revenue was secured to the *communes* to which they had been all but profitless, and fuel was also made cheap to the poor. We should find further proofs in his promotion of agriculture, when we learn that in 1814, when the population of Modena was 380,000, the deficiency in grain crops

was estimated to be equal to one month's supply each year. In 1859 the population had increased to 606,000 (including about 50,000 from accession of territory), and the deficiency of grain was reduced to fifteen days' consumption in the year, while the formation of rice fields in the valleys of Novellara and of Novi not only made the population independent of foreign supplies, but enabled them also to become exporters.

If M. Farini and the commissioners who inspected the archives of Modena had so willed it, they could have published numberless proofs of the persevering endeavours of both Duke Francis IV. and Francis V. for the realisation of a project (the Botte di Burana), by which 30,000 hectares of land would have been converted into the richest and most fertile soil.

Even the enemies of the Duke of Modena do not deny that his administration of the finances of his State was upright and economical. The interest of the public debt was about sevenpence per head for the population, and the capital of the public debt was less than one year's revenue of the State. The interest of the Piedmontese public debt amounts distributively to seven francs per head, so that by the annexation of the Ducal States the Modenese have already become sharers in a burden ten times as heavy as the one they bore previously.

The Duke of Modena has always been an advocate for the union of the Italian States in a Confederation which might give a legitimate direction to the feeling of nationality, and avert the danger by which Italy has been overtaken. As early as 1851 it was the Government of Modena which proposed to the other Italian governments the bases of reciprocal agreements, which, if accepted, might have been considered as the first sketch of a federal pact. But after various conferences and missions, and the exchange of sundry diplomatic notes, the proposal fell to the ground, and its only result was a convention of the five Italian States interested in the construction of the Central Italian railroad, a result of undeniable value, but insignificant when compared with the scope of the plans contemplated by the Duke and his Government.

Under these circumstances it would seem almost idle to answer the question whether a government, of which this was the spirit and result, was or was not the *régime* of a tyrant. Nevertheless it is only proper that where charges are made by a British Cabinet Minister, they should be seriously entertained

and satisfactorily answered. Some of them have been already discussed in the correspondence between Mr. Gladstone and the Marquis of Normanby, and therefore it is thought desirable to print this correspondence in Appendix A; but it is here proposed to proceed with these charges seriatim, and thus to meet first the *first on the list, the transfer of certain criminals to the prison of La Saliceta.*

Now it is singular that this instance, adduced by Mr. Gladstone as his first proof of the Duke of Modena's bad government, and of the insecurity of his people as regards their personal rights, must be considered (if the opinions and recorded evidence of the most competent English authorities on the administration of criminal justice be allowed to have weight) as a proof that the government of Modena was in advance of our own, and had already effected those reforms in the treatment of criminal offenders of which we in England admit the desirability, but which we have as yet only partially adopted. Our own mode of dealing with criminal offenders approaches more and more to the Modenese system, as illustrated by this case of certain inmates of La Saliceta. Our Irish convict prison system, in praise of which so much has been of late said with so much justice,—our model prisons, our reformatories, and our industrial schools (concerning which we legislated in the very last session of Parliament), are all so many recognitions of the fact that we in England were behind the requirements of the age, and that the Modenese Government had outstripped us in the path of reform. Thus, before we proceed to ascertain the intent and bearing of the document which Mr. Gladstone converts into a charge against the Duke of Modena, we shall adduce as general evidence on the question the high authority of Mr. M. D. Hill, Q.C., the recorder of Birmingham.

Thus, at the Birmingham Quarter Sessions, December 29, 1856, Mr. M. D. Hill delivered a charge to the grand jury, which made a very deep impression on the public. It was reported *in extenso* in the *Times* and other journals, and has been repeatedly referred to since. He treated in it of criminal punishments, transportation, and the ticket-of-leave system. He spoke of our advancement in the sciences and arts, the extension of our commerce, our widespread dominions, our high place among the nations, as subjects of honest pride and blameless gratulation; but he spoke of the cruel mortification which must be felt when we contrasted these testimonies of civilisation with the contempt and defiance of our civili-

sation manifested by our criminal population. "It will not be supposed," he said, "that I differ from my countrymen in their feeling of dissatisfaction at the present treatment of criminals. The evil is too flagrant to be denied."

"That the prison gate should be opened for the discharge of an unreformed criminal is a misfortune to all parties, not only to the community, but to the prisoner. Yet this is what we do every day of the year. Every day are the officers of our gaols busied in thrusting forth on the unoffending people of this country, men, who, having been deprived of their liberty because they had used it in a manner inconsistent with the safety of their neighbours, are restored to freedom with the full knowledge of all concerned that they will at once return to their old courses.

"Never let us forget that the evil under which we are suffering is the discharge among us of unreformed criminals.

"What we have to aim at is to prevent criminals, once caught and convicted, from being so placed as that they have the power of offending again, until we have some proof that their habits and dispositions are changed for the better. And if the necessary discipline in gaol to which they are subjected should fail to produce this effect, then is it not unquestionably right that such seclusion should continue, even if it last for life, such result being the consequence of their own obstinacy in resisting reformatory influences, or their own incapacity to keep in subjection propensities incompatible with public safety. Ages ago this island was infested with wolves — a dire calamity, as all conversant with the history of those times well know — what should we have thought of our ancestors if, after giving a reward for each wolf captured, they had, when a certain number of years or months had elapsed, opened their dens and restored them to liberty.

"Let me instance the case of Bavaria. Having heard and read much of its prisons, especially those under the control of State Councillor Obermayer, I have, through the kindness of our envoy at the court of Munich, obtained from the Bavarian Minister of the Interior full information on the treatment of prisoners adopted in the dominion of his sovereign, and I find the plan which I have so long advocated is there in actual operation. There is a class of offenders imprisoned for an uncertain period, or in other words, until, by good conduct, they have worked their way back to liberty. But neither the Bavarians, nor, so far as I know, any other continental nation, expect confirmed criminals to be reformed in three or four years, consequently they are kept a longer period, advancing themselves, however, by progressive stages, from treatment in which they are debarred from every indulgence, to a manner of living not destitute of considerable enjoyment."

So far, Mr. M. D. Hill; and now let us ask what was this "other prison" to which Mr. Gladstone says the Duke of Modena ordered the batch of 254 criminals to be transferred.

The document referred to by Mr. Gladstone is to be found in vol. ii. part iii. sec. i. pp. 3, 4, of the Farini Compilation, as follows:—

No. 2429.

Al Buon Governo.

Visto l' elenco dei detenuti in carcere dietro condanna criminale che col 1° Aprile era di 254 teste, decretiamo che tutti sieno a suo tempo passati nella nuova Casa di Forza alla Saliceta. Rilevato poi che circa un terzo dei medesimi, in forza delle mitissimi condanne dei Tribunali, finiscono entro quest' anno la loro pena; di Nostra Sovrana autorità decretiamo che costoro non siano ridati alla società, finche non abbiano e dato saggio di riformata condotta, in detta casa di forza, ed ivi abbiano appreso un mestiere.

Reggio, 22 Maggio, 1853.

Firm. FRANCESCO.

No. 2429.

To the Police.

Having seen the schedule of those detained in prison under criminal sentence, which, on April 1 contained 254 persons, we decree that all shall be in due time transferred to the new house of correction at Saliceta. Noting, moreover, that about a third of them, in virtue of the extremely mild sentences of the Tribunals, finish their punishment within this year; of our sovereign authority we decree that they shall not be restored to society until they have both given signs of reformed conduct in the said house of correction, and have learned a trade there.

Reggio, May 22, 1853.

(Signed) FRANCIS.

Now, what was this new house of correction at Saliceta? The house of correction at Saliceta is an institution copied from one of those very Bavarian models which Mr. M. D. Hill proposed for our admiration. The present Duke of Modena is married to a Bavarian princess, and having had occasion to observe in Bavaria a kind of compulsory workhouse for the correctional and preventive reclusion, by the authority of the police, of vagrants, disorderly persons, habitual offenders, &c., his Royal Highness resolved to found in his own States an establishment similar to the Bavarian model of which he had observed the excellent organisation and the salutary social results. The Duke therefore founded this compulsory workhouse of Saliceta as a prison of correctional police. It was an establishment which any country might well be content to copy. There was a cloth factory in it for the use of the army; trades were taught in it; pay was given to the *reclus* for their work, so that on their liberation they might leave with some funds in hand. They had their hours of work, of silence, and of recreation, and the *régime* was so humane and good that the mortality was only one per cent. per annum, being less than the average mortality among the troops in the remarkably excellent barracks of that country.

But for whom was this house of correction intended? What description of persons were to be confined in it? Rogues and vagabonds were to be confined in it. Persons already convicted of offences, and therefore known to be bad characters, were to be confined in it. Long previous an older house of correction had

existed in the citadel of Modena, but from the opening of Saliceta the latter became the only house of correction for males in the Ducal States.

It will be observed that the Ducal decree is addressed "Al Buon Governo." Now this Buon Governo in Modena is the Department of Police. It was regularly organised in three magisterial grades, with graduated appeal; but the jurisdiction of these police magistrates is not to be confounded with that of the criminal courts of the country for the punishment of felonies and grave offences. Their jurisdiction was correctional, and for the preservation of order. The very fact that the Ducal decree was addressed "Al Buon Governo," for the transfer of these 254 prisoners to the new house of correction, implies that they were not individuals who had been tried and sentenced under the criminal code of the country, but "malviventi," vagrants, rogues, and vagabonds, whose case had fallen within the correctional jurisdiction of the police magistrates, and whose detention was either preventive or reformatory.

Now let us turn to Mr. Gladstone's accusation, and see how he extorts a charge of tyranny against the Duke of Modena out of the decree which we have already cited.

Mr. Gladstone says—

"The first document which I shall cite was written in 1853, a time of profound peace. It does not mention whether the persons referred to were criminal offenders, *but I have no doubt that they were.*"

This is an arbitrary assumption, and we note that it is so before proceeding to the imputation which follows.

Thus we learn from Mr. Gladstone's speech, which appears on page 9, what his notion of this transaction really was. He conceived that the Duke of Modena had done what our Queen, Lords, and Commons would have done if they had passed an Act of Parliament last session ordering that all persons now under sentence of imprisonment, whose imprisonment, according to the sentence under which they were in durance, would expire on or before the 31st of December, should be sent to a house of correction, and should not be set at liberty until they had given signs of reformed conduct and learned a trade.

If such an enactment had been passed with a prospective operation, it would have met the views and carried out the recommendations of our most enlightened law reformers, but it would of course have been open to objection to give it a retrospective opera-

tion, and so subject criminals, who had satisfied public justice by undergoing their punishment, to fuller penalties by an *ex post facto* law.

This, it appears, is what Mr. Gladstone believes the Duke of Modena to have actually done. He does not say that it was not a very good thing for the offenders to be detained till they showed signs of reformation and had learned an useful trade. He does not say that it was not a very good thing for the inhabitants of the Duchy of Modena that the dangerous classes in the community should be so treated, but he denounces it as an infraction of the personal rights of those offenders, who, as he believes, were entitled to be set at liberty upon a given day, and whose liberty he conceives to have been curtailed by an *ex post facto* law.

In all this, however, Mr. Gladstone is mistaken. By the decree in question the Duke of Modena was not depriving of their liberty those who were entitled to it. The Duke was only directing the application to those persons of a law which existed before their offences were committed, and was ordering that a measure should be applied to them individually, to which all persons in their case were liable by the law as it had already stood for twenty years.

In the very volume used by Mr. Gladstone against the reigning Duke of Modena there is a document (vol. ii. part iii. sec. i. pp. 40, 41), which proves this. It is a direction, dated April 15, 1833, signed by the then reigning Duke, and addressed "Al Ministero di Buon Governo," concerning persons guilty of faults punishable by the department of Buon Governo (*delitti di contravvenzione*), in consequence of which it was enacted—

5. Che esso Buon Governo possa anche preventivamente arrestare soggetti diffamati, specialmente in punto furti ed aggressioni o nota immoralità ed irreligiosità scandalosa, e tenerli ai lavori forzati entro i limiti del tempo che è dato al Buon Governo di tenerveli.

6. Che per alcuni notissimi malfattori già puniti altre volta non si dia loro la libertà che quando od abbiano provato che essi erano in altro luogo che quello del commesso delitto nel momento in cui si commise, od abbiano provato legalmente con quali mezzi vivevano e con quali vivranno. Se non avevano mestiere, si teranno in questo caso nella Casa di lavoro forzato sinche non abbiano appreso uno.

5. That the Buon Governo may also arrest by way of prevention persons of evil fame, especially in the way of thefts, assaults, noted immorality, or scandalous irreligion, and keep them to forced labour within the limits of the time that it is permitted to the Buon Governo to detain them.

6. That as to any very noted evil-doers, who have already been punished on former occasions, their liberty shall not be given to them until they have either proved that at the time when the offence was committed they were in some other place than the place where the offence was committed, or have legally proved on what means they were living and will live. If they have no trade, they are to be kept in that case in the House of forced labour until they have learned one.

This decree of Francis IV. of Modena, in 1833, is very much in the spirit of Mr. M. D. Hill's charge to the grand jury at Birmingham quarter sessions in 1856. It is very much in the spirit of one of the propositions submitted to the Law Amendment Society (of which Lord Brougham, a critic of the Duke of Modena, is president), reported in the *Times* of December 17, 1856, when Mr. F. Hill read a paper, entitled "The means of freeing the country from dangerous criminals," in which he advised that magistrates should have power to cause any suspected persons to be brought before them, and to demand to know their means of living, and in case the person brought before the magistrate should be unable to show that he obtained a living by honest means, that he should be committed for trial, the proof of innocence being thrown upon him, the suspected person. It is identical in spirit with the 271st clause of the Code Pénal of France and Belgium, Book iii. Tit. i. § 2, on Vagabondage, which enacts that vagabonds, or persons without calling, who shall have been legally declared such, shall, on that account alone, be punished with from three to six months' imprisonment, and shall remain, after having undergone their punishment at the disposition of the Government, during the time that it shall determine, regard being had to their conduct. But the quarter from which, in 1833, the former Duke of Modena derived the rule, was probably the Austrian Correctional Police regulation. The 8th rule in the provincial house of forced labour in the city of Prague is a specimen of the system generally carried out in such places. "No inmate of the house shall be released before he has given sufficient proofs that he has improved and has inured himself to labour, so that it can reasonably be expected that he will occupy himself in some honest calling."

What we, however, for the present are concerned to note is, that for twenty years, by the law of Modena, very noted evil-doers, habitual offenders, persons "well known to the police," persons who, in the language of our police reports, had already often "appeared before a magistrate," if already in arrest, were liable to have their liberty withheld until they had learned a trade; and the Duke's order of May 22, 1853, merely directed that those offenders whose punishment by imprisonment expired within the year, and who, if then liberated, would lose the benefit of the new correctional institution, should have applied to them the regulation provided for such persons by the law of April, 1833. Thus the facts of Mr. Gladstone's case, like his inferences, were

mere hasty assumptions, and there is not a shred of imputation remaining upon the Duke upon this point.*

SECOND
CHARGE.

The *second* charge is that which was more particularly the subject of the correspondence between Mr. Gladstone and the Marquis of Normanby. (See Appendix A.) In its first shape it amounted to an odious accusation, which, it is not too much to say, stung to the very quick one so scrupulously just and high-minded as the Duke of Modena; for it imputed to him the atrocity of issuing an edict for the execu-

* Before quitting the subject we will cite a letter from a Modenese authority, giving a general sketch of the circumstances which induced the proceedings in question, and of the consequences which followed.

"With respect to the accusation of arbitrary detentions, it must be borne in mind that the question was to adopt measures of public security which were really invoked and demanded by the public. Except in tranquil and gentle Tuscany, not only is crime frequent, but it is difficult to obtain convictions. Witnesses stand mute out of fear of the poignard, or from the common Italian prejudice that giving evidence on a trial is to play the spy (*far la spia*). The judge in such a case, however courageous and active, cannot convict or sentence the accused. For this reason, in the old Estensian Code, there was a provision that, in case the technical proofs were imperfect, the judge, if his own belief in the prisoner's guilt amounted to a moral certainty, might inflict a punishment, which, according as the evidence against the accused was strong and his character bad, might approach the ordinary penalty more nearly, or fall further short of it.

"Following the precedent of all modern codes, the present Duke of Modena thought proper to abolish this discretionary right in the judges, and to leave them only the power of applying the ordinary penalty in cases of conviction, or in case of incomplete technical proof to release the accused, leaving the trial open. In this latter case the accused were handed over by

the judges to the police authorities, who were to take suitable measures for their *surveillance*. For certain individuals, incorrigible thieves, old offenders, against whom there was strong circumstantial evidence, and who could not prove that they had any lawful means of subsistence, it had long been an established rule that the police should have them taught some trade in a house of correction, and detain them there until they had learned such trade.

"The Government was led to insist on the observance of this rule by frequent public deputations which waited on the Duke to complain of the laxity of the police administration, and to implore the more vigorous enforcement of the law. Experience had shown, as these deputations pointed out, that as long as a certain set of notorious 'rogues and vagabonds' were in confinement, thefts, assaults, and offences very seldom occurred, but that the restoration of these individuals to their liberty was the invariable signal for the recommencement of offences.

"As for the consequences of the measure, they were in the highest degree satisfactory to the population, and the absence of thefts and offences proved that the Government had not been misled in its adoption of a remedy.

"Subsequent to the above proceeding, on the 12th February, 1854, the Duke promulgated a new police regulation for his States, which came into force on the first of May following. By this regulation the powers of the police

tion of a certain criminal, one Granaj, who could only be rendered capitally amenable by the application to his case of an *ex post facto* law. "If this were true," said His Royal Highness, "I should feel myself morally guilty of murder." It was not true, however, either in letter or spirit, or indeed in any sense, for Granaj was not executed. There was no intention of executing him, or of giving to his or any other case an *ex post facto* application of any penal enactment; nor was there, in fact, any edict whatever affecting him, for Mr. Gladstone made a grievous blunder upon this point, and betrayed a strange reluctance to acknowledge it when once it was pointed out to him by the Marquis of Normanby. Of this charge in its first shape his correspondence with the Marquis is the best refutation*; and it may be observed that all the lighted candles of

magistracy were regulated, defined, and, in some respects, extended, so as to relieve the ordinary tribunals of all the pettier classes of offences, and provide for the speedy decision of the minor offences. Their jurisdiction extended to petty thefts of sums not exceeding ten Italian lire for culprits of full twenty-one years, or of twenty Italian lire for persons under that age. A slight penalty was appointed for the first theft, for the second and third relapse it was doubled or trebled.

"For the fourth theft the condemned shall be *sent to the house of correction without a predefined term, until he be amended and have learnt a trade proper to gain his livelihood.*"

Similar provision is made in case of inveterate incorrigible vagabondage, when the offender is to be "*sent and kept in the house of correction for an indeterminate time, that is, until he shall have given proof of improvement (ravvedimento), or have learnt an art or trade calculated to procure for him an honest sustenance.*"

The diminution of criminal prosecutions which took place between 1853 and 1856, as appears from the official returns of the latter year, was as follows:—

1853	.	.	.	.	2770
1854	.	.	.	.	2662
1855	.	.	.	.	1877
1856	.	.	.	.	1898

* In addition to this, however, it may be as well to add the explanation given by a gentleman conversant with the legal bearings of the document on which Mr. Gladstone founded his charge; for, as this writer observes, the very text quoted by Mr. Gladstone itself suffices to refute his calumnious assertion. In short, the alleged order for the execution of Granaj resolves itself into this: that, whereas Granaj, though guilty of deliberate murder, could not be executed, the Duke took occasion to remark thereon, and on the increasing frequency of this class of crimes, and prescribed, therefore, that *for the future*, in the draft of the new code, such criminals should be made capitally punishable, though they had not attained the age of twenty-one. The Duke's order had reference to future cases *only*; for, as His Royal Highness observed in his letter to Lord Normanby, had this been otherwise, it "*would have been giving retrospective force to a law injurious to the criminal, and therefore an act absolutely to be reprobated.*" Mr. Gladstone did not admit how completely he had misread the document and misconceived the intentions as well as character of His Royal Highness; but every one else who peruses it will now perceive that there is not the shadow of a pretence for his original accusation.

the Modena Commissioners did not save him from misreading even their garbled documents. For that most grievous charge was purely of his own invention. It *evaporated* in his own hands. Yet Mr. Gladstone, refuted, was unequal to the duty of rejecting it as untenable. Like one of his Homeric acquaintances he was embracing a cloud, yet he would neither desist nor allow others to convince him of the utter unsubstantiality of the seductive illusion. This phantom, which he had animated by his own brilliant imagination, passed, like any other cloud, through a succession of transformations, till, in its last stage and shape, it amounted to this, that "capital punishment was made applicable by an *ex post facto* law in the dominions of the Duke of Modena in 1857 to youths charged with homicide." The case of Granaj, which belongs to the date of 1855, was thus entirely abandoned, though there are discrepancies on this point between the statements of Mr. Gladstone and his defender, Lord Wodehouse, in the House of Lords. Mr. Gladstone, however, was unwilling to sacrifice his illusion that at some time or other sentences were passed upon criminals in pursuance of an *ex post facto* law, the application of which was enjoined by the Duke. It is therefore to the *substance* of his accusation, whatever its form, that a denial is intended; and this denial will be sustained by an explanation of the documents, and by a narrative of the facts which from first to last he has so resolutely misapprehended.

Let it be premised, then, that the documents which bear upon the case are connected with a chain of occurrences to which it is essential to make some preliminary allusion. The correspondence which is contained in Appendix B, on the part of Lord Normanby, Count Cavour, Lord Malmesbury, and Count Forni, contains references to the fact of a difficulty which had arisen; and they are pretty explicit also as to its nature. Conspirators of many years' standing (there was at least *one* such in Italy) had imported into the Duke's dominions from without, or rather into a certain small convenient section of them, a secret and organised system of conspiracy, which manifested itself in a series of atrocious murders that spread terror among the peaceable inhabitants who were not actually themselves its victims. It is not too much to say that if revolutionary propagandism was its avowed source, private enmity availed itself of this pretext for its purposes. The league of the conspirators, the contiguity of Piedmont, and the certain sanctuary assured to the assassins, rendered murder easy, tempt-

ing, and above all safe. Furthermore, the assassinations thus liberally encouraged afforded political capital to Piedmont, which, in virtue of the very atrocities it abetted, took occasion to reflect on the Duke's government, and incessantly deplored through its public journals the crimes of which it was both the accomplice and protector. These crimes took place only in a district on the Piedmontese frontier, and Piedmont sheltered the fugitive murderers, violating for that purpose the solemn engagements of extradition treaties. (See Appendix, pp. 89-92.)

Up to a certain date this district of Massa-Carrara was free from bloodshed, and the inhabitants were earning an easy subsistence by honest labour, for which their quarries and marble works afforded them ample facilities.

"But about the year 1850" (we are quoting the statement of a gentleman thoroughly conversant with the particulars) "there came to Carrara a certain Giovanni Calzolari, who was called the old *Genoese*, 'il vecchio Genovese,' a man aged about fifty, a native of Lerici, and whose previous life had been of the worst description. He sought to gather round him youths of bad habits, and, alleging that he had a mission and support from Piedmont, he told these young men, and subsequently others of better qualities, that there was a society in Piedmont which rendered all who belonged to it happy, and which he recommended and invited them to join. He said that this society tended to the introduction of constitutional government, which was of great benefit to all persons; and in order more effectually to seduce the rude race who laboured in the marble quarries, he gave them to understand that under such government people only worked two days in the week, and received a crown per day notwithstanding for the other five. Some of these simple creatures readily believed him. Those who had a distaste for labour especially acquiesced in such a promising scheme, and agreed to belong to such an admirable society. Calzolari thereupon began to enrol and affiliate them by an oath taken upon two crossed daggers, 'to slay priests, cardinals, sovereigns, father, mother, brothers, and sisters, and whoever else was opposed to constitutional government.' He taught his adepts secret signs and passwords by which they might know one another, and he inculcated upon them the obligation to slay without ado any person whom they knew to be well affected to the government of the Duke; for which purpose he instructed them in the surest way of surprising their victims, explaining in what parts

of the body, and especially the neck, they should plant the blow, with other accomplishments of this description, which, according to modern *Italianissimo* doctrine, smooth the road to true prosperity and honour. He bound them all to render each other mutual help and succour, and insisted upon imposing the penalty of death upon any who should reveal the secret, and also upon any person who when charged by a superior to kill should not punctually carry out his commission. Calzolari saw this society, which he had founded, grow and flourish, for he had made it an obligation of the members to affiliate every one they could, either by persuasion or violence. In order to make proselytes, therefore, these villains began crying down and menacing the unenrolled, calling them the *blind* ('ciechi'); and some out of curiosity, and some from fear, and some tired of being the objects of surveillance, and some tempted by the promise of advantages and of a life of light labour, caused themselves to be affiliated. Even men who refused were coerced to form part of the society, being taken unawares, and brought into taverns under pretext of supper, where, with armed hand, they were forced to enrol themselves and take the abominable oath. Being a rude people who lived in the highlands, and among the marble quarries in solitary places, it was easy to spread among them such a sect, so that, within a brief space, Carrara and its neighbourhood were full of adepts, some of whom were in the habit of going from time to time into the neighbouring Piedmont for better instructions, while divers missionaries also came thence to inspect and encourage the new plantation. This is enough to explain what a sect and conspiracy was there on foot, while the murders that occurred there were entirely its fruits. At length the assassins attained to such effrontery, that they committed the most horrible crimes in cold blood, in the public squares, in the midst of the people, and in broad daylight. For they knew as well as the best diplomatic conspirator of many years' standing, that on reaching the Piedmontese territory they would receive protection in spite of the treaties for the extradition of criminals that existed between the States of Modena and Piedmont.

"In proof of this, I need only allude to the five assassins who, having with their daggers treacherously slain in the public streets of Carrara in the broad day of the 27th September, 1857, at four o'clock in the afternoon, three men, viz. Ribolini, Zeni, and Rocchi, took refuge immediately in Piedmont, where they found the aid they expected, and all demands for their extradition were

notoriously made in vain. To such an extent did this murderous combination affect the neighbourhood, that the town of Carrara, its centre, was avoided by travellers, so that the works of its sculptors remained for years unsold in their studios, at no small loss to them and to the rest of the population, who previous to this time had participated in a common prosperity. Moreover, the number of actual murders was so considerable in proportion to this very limited population, that some forty of them had occurred previous to the date at which the Duke, finding the ordinary tribunals powerless, put the district by proclamation under martial law.”*

This narrative of the state to which Carrara was reduced by a sanguinary conspiracy is a necessary explanation of the state of siege which followed, and it might well justify the Duke in taking measures of extraordinary severity, if there was the least pretence for asserting, as a fact, that any such measures could be ascribed to him. On the failure of all the ordinary tribunals and of a military commission to repress this system of wholesale assassination, the state of siege was proclaimed; but it was practically mitigated by such remarkable clemency and by such a very peculiar modification of its conditions, that the charges which have arisen out of them may be simply regarded with derision. In the vast majority of cases the introduction of a state of siege is a measure of extraordinary rigour in its operation, and those who are subjected to it are condemned ordinarily not only to the jurisdiction of military tribunals, but to the summary penalties of an exceptional code. Let us see what the state of siege, then, meant in this instance, and how it was specially interpreted and qualified by the Sovereign whom Mr. Gladstone, with astonishing perversity, has persisted in representing to the world as a tyrant.

The state of siege, restricted, as we have said, to the city and commune of Carrara, was formally notified on the 6th October, 1857; and on the 7th October the Duke issued the decree which is the subject of Mr. Gladstone's accusation in the last form of error which that Proteus assumed. “Whosoever,” says the Duke, “is found guilty of assassination may be condemned to the capital

* Mr. Gladstone spoke with deceptive vagueness of this occurrence, describing the state of siege as having been “proclaimed in Modena,” as if it had extended to the whole 600,000 inhabitants of the Modenese States;

whereas the state of siege was confined strictly to the city and commune of Carrara, which contained a population of only 15,550—that is to say, little more than a fortieth of the Duke's subjects.

penalty even when under the age of eighteen years." And here Mr. Gladstone assumed, though the case of Granaj had broken down, that he had found a warranty for his later statement, that "capital punishment was made applicable by an *ex post facto* law in the dominions of the Duke of Modena in 1857 to youths charged with homicide." He will now learn, it is to be hoped, with due penitence for his persistency in a charge so unjust, that this decree of the Duke was *ex post facto* in no sense, but was simply declaratory of the existing law. The exact bearing of this decree is explicitly stated in the subjoined note*, which is derived from the statement of a high Modenese official, and it will be found utterly to exclude the interpretation which Mr. Gladstone, too eager to sustain his accusation, has put upon it. On the other hand, his further complaint that by another clause of the same decree it was provided that soldiers should be specially qualified to appear as

* "I proceed to furnish you with the explanation that you ask from me respecting the alleged order of the Duke, 7th Oct. 1857.

"Our *civil* code, like the French code, lays down that 'a minor is a person of either sex who has not yet attained the full age of 21 years.' But emancipation, which, according to the *Code Napoléon*, may take place at the age of 15 can only take place with us when the minor has attained 18 years. For this reason, in various provisions of the code, the age of 18 is often indicated and chosen as an intermediate term.

"The new *criminal* code, however, which came into force on the 1st May, 1856, after fixing the penalties and their gradation, ordains that in general the minor between the ages of 18 and 21 shall be punished with a degree less than the ordinary penalty, *except* in cases of sacrilege or of high treason, or of parricide, infanticide, poisoning, premeditated, or treacherous, or insidious slaying, or, finally, of assassination, in which cases he was liable to capital punishment. You see that in making these exceptions, in which the minor was placed on a par with persons of full age as to the application of penalties, account had been taken of the reflections which had occurred to the Duke on the occasion of the sentence of Granaj.

But the same criminal code, in its articles 55, 58, and 59, laid down also that a minor who had not attained 18 might be, according to the discretion of the judge, punished with the same penalties as the law applied to minors of 18, if the degree of malice of the accused, or the other circumstances of the crime, required it. It follows, therefore, that the direction, or I should rather say the explanation, contained in No. 2 of the alleged sovereign rescript of 7th October, 1857, would be in perfect harmony with the existing law, which assigns the penalty of death to minors of full 18 years, and grants to the judges a power of applying it also, according to circumstances, to minors who have not yet attained those years. It must not be omitted that the word *potrà*, i.e. *may*, is not an injunction, but an expression which, in accordance with the code, leaves and allows a discretion to the judges to apply capital punishment in cases such as those contemplated. Some one may object that if the code contained the provision, there was no reason for recurring so the sovereign to obtain such an authorisation; but the answer to this is, that, inasmuch as the new criminal code had only been in force for about eighteen months, its application was

witnesses in the case, is no doubt borne out by the terms of the decree, to the effect that both military and police should be competent to give evidence. But how strange is this complaint from the minister of a country where such persons are qualified to give evidence at all times; and how specially unreasonable is it to complain that being, as they were, competent already before the ordinary Modenese criminal tribunals they remained competent witnesses, in a state of siege, in dealing with a secret and widely ramified conspiracy, which, by threats of murder and by actual murders without number, had rendered the evidence of every other witness almost unattainable!

Mr. Gladstone has again misstated the fact, for instead of such witnesses becoming specially qualified by means of the Duke's decree of this date, they were already so qualified by a law which had come into force as a provision (§ 1, Art. 551) of the New Code on the 1st of May, 1856, and of which the magistrates were reminded by circular, issued, in accordance with a direction of the Duke, on the 16th January, 1857, that is to say, about nine months previously. And as our attention is here directed to this code, and its special provisions respecting the competency of witnesses, we may observe that it does exclude, by Art. 138, the evidence of "*informers and complainants (querelanti)*," who "*can never be heard as witnesses except at the instance of the accused.*" When no such exception would have been tolerated in England for a moment, when no such tenderness for criminals is exhibited in this country, it is somewhat strange to find an English minister imputing cruelty to a foreign sovereign who, in deference to a very questionable prejudice, deprived himself of this legitimate means of bringing such criminals to justice.

not so clearly established by practice as to render it unnecessary to have recourse to the legislator to obtain an authentic interpretation of it. It may even be that military judges may have raised upon a matter which was not quite of their habitual *ressort*, doubts that any other competent authority would not have raised. Be this as it may, whatever was the cause of the resort, it is quite evident that the direction which it contains in no respect alters the code or aggravates the condition of the condemned in the face of the

law." Moreover, it ought here to be added that the five singularly atrocious and confessedly guilty murderers who alone suffered death during the Duke's reign had all attained the full age of 21 when their crime was committed. Two more murderers who were sentenced to death, but whose penalty was commuted, were also 21 when their crime was perpetrated. Many minors were convicted of murder, but sentenced to mitigated punishment, not to death.

In short, in answer to such charges the whole course of the Duke's dealings with Carrara might be cited, but especially we ought to call attention to a decree of the date of the 22nd December, 1857, in order to show the general tenor and spirit of his intervention, and especially to denote the scrupulous humanity with which he provided that the milder of two penalties should be invariably applied there, even when the state of siege might be supposed to imply the very contrary. Up to the 1st May, 1856, the old local statutes of Carrara had been in force there; but on that day the new Modenese criminal code (Codice Criminale Estense) had come into force; while the state of siege commencing the 6th of October, 1857, had complicated this confluence of laws with the methods of procedure adopted under the Modenese military code (Codice Militare Estense). To determine, and not less to soften than to determine, the application of these discrepant enactments, the Duke issued his decree of December, 1857; and this, with the annexed annotations of the Judge Advocate Gentili, who presided over the Commission, shall be the close of our reply on this point to the Duke's calumniators. As, however, the entire document is too lengthy for insertion here, we refer our readers to it *in extenso* in Appendix C.

THIRD AND
FOURTH
CHARGES.

The *third* charge, or rather the third and fourth charges of Mr. Gladstone, appear to have arisen out of the cases of certain criminal offenders which were submitted to the Duke contrary to his injunction and desire. The third charge, even in the language of Mr. Gladstone, is not very serious, or suggestive of very terrible tyranny; for it amounts in its most hostile form of statement only to this, that Mr. Gladstone found the Duke was "nauseated," *i. e.* disgusted, by reading three judicial sentences, and that his reason was that the crimes were so lightly treated that the punishments were worth nothing at all. Secondly, as Mr. Gladstone puts it, the Duke was even more nauseated by finding that previous good conduct had been alleged on the part of the criminals; to which we must ourselves add, by way of *caveat* to Mr. Gladstone's accuracy, that the document so interpreted has been recklessly misread by him, for the Duke makes no such frivolous complaint, though he does object that the previous good conduct of the criminals is permitted to qualify the very *nature* of the offence with which they are charged. We recommend Mr. Gladstone again to consult the original, which is inconveniently long for inser-

tion *in extenso* here; and in the mean time we will ask to what, divested of its fanciful trimming, does the remaining substance of his charge against the Duke amount? If the Duke was disgusted with the conduct of certain judges, it is surely important to know whether he was so with or without reason, before his disgust is condemned and held up to public obloquy. For the *expression* of his disgust, by the way, the Duke is not responsible, for the judges in question directly invited it by referring to the Duke these very cases, as we said, contrary to his injunction and desire. "It is entirely against our wish," says this very document, "that sentences *passate in giudicato*," that is to say, for which the time of appeal was expired, "should be submitted to us; and should this happen again we will dismiss any judges who may adopt such proceedings (*avessero agito in tal maniera*)." The cases having nevertheless been submitted unsought for, he concludes by deciding that "the Ministry of Grace and Justice shall ordain the revision of such of the causes now presented to us as are *passate in giudicato*, *we not being tranquil in our conscience that justice has been done*." The revision even then contemplated was that of the ordinary tribunal, to which up to a certain date an appeal would have been *en règle*, and to which he still allows an appeal to proceed, in consequence of the irregularity of the judges in thus referring these cases to himself.

The *reasonableness* of his disgust, which is really the very substance of the question, should fairly be considered apart from its expression, which was, as we have observed, all but obligatory. It is impossible to cite here all the evidence which would prove that it was reasonable in a very emphatic sense; yet it was notoriously the fact that for a long time previously the judges of Modena, as a body, had been shamefully lax in the performance of their judicial duties,—that is to say, they had almost invariably imposed the minimum of punishment, whatever the atrocity of the criminal; they had ascribed more effect to *circonstances extenuantes* than the most sentimental judge of a French department; they had protracted criminal processes with a dilatoriness which would have startled even the unreformed English Court of Chancery;* and

* We have an instance of this in a case on which (7th Nov. 1851) the Duke is consulted by the authorities

respecting the appeal in the third instance (for revision) by an assassin who had already been condemned, as

finally they had, in some most discreditable instances, allowed the machinery of justice to miscarry altogether. We have grounds for asserting that the Duke had the gravest occasion for the censures he expressed in such plain and indignant language, in what however we must remember was a *quasi* private and as it were interlocutory communication to his Minister of Grace and Justice; for the facts were literally as he stated them in that confidential communication. For a long time past, every crime of a grave character had escaped its merited penalty, the penalties in other cases were more or less heedlessly mitigated, and the law as administered had few terrors for the guilty, and was totally inadequate for the protection of society. The convictions of the Duke upon these points were shared by the Modenese public, who were incessantly complaining of the impunity of crime, of the inertness, the slowness, and the inefficiency of the judges, and of the evil influence of their laxity upon public morality. In some cases where they did pronounce judgment of condemnation after a long protracted process, such, we are told, was the effect of their dilatoriness, that the public had almost forgotten both the crime and the criminal, and the moral effect of the sentence was all but obliterated. In short, the Duke was required to interfere by complaints upon all sides, and had he been inclined himself to allow his judges to neglect their duty, all the respectable inhabitants of his duchy were ready to remonstrate to the same effect.*

well in first instance as on appeal, to fifteen years' galleys, for having, on 29th June, 1847, beaten to death with a club a Royal Chasseur, in order to rescue a prisoner from his hands; and the Duke, upon this official report of a petition from the criminal for a respite in order to claim a revision, writes, under date 7th Nov. 1851:—

"That he requires to examine personally the whole process, in order as well to ascertain why the trial was dragged on for *more than four years*, and in order to see whether the tribunals, in their propensity to laxity in punishing grievous crimes, have not been lax in this instance, where he sees no possible extenuating circumstance, the assassination being combined with an outrage on public authority, and

committed upon a soldier who was simply in the performance of his duty." In another instance we find the Duke, on the 22nd of June, 1855 (misprinted by the Commissioners, with the aid of all their candles, as 1852), remonstrating on the subject of another criminal process for burglary and murder which had already taken *five* years to reach the decision of First Instance, and on which the Duke recommended a little more diligence in the subsequent stages.

* The English reader, accustomed to the zeal and integrity of the judicial functionaries in his own country, and cognisant of the unimpeachable manner in which they perform their several duties, will have a difficulty in understanding the inveterate laxity

In the very case of the woman Libbra, acquitted of infanticide after a protracted and faulty process, this public opinion manifested itself in condemnation of the miscarriage of justice, and circumstances were brought to the knowledge of the Duke which occasioned the remarks on which Mr. Gladstone founds his *fourth* charge, that the Duke ordered her accomplice, Felice Libbra, to be still detained in prison, after his term of imprisonment had expired. Let us meet this charge once for all, and let us meet it promptly and plainly. It is simply untrue. Mr. Gladstone has mistaken an expression of the Duke's disgust for a direction in the case. The Duke was disgusted; and there is nothing

of the Modenese judges, and their tendency to divest themselves of their proper responsibility. The fact was so nevertheless, whatever may be its imputed cause, and the Duke was incessantly endeavouring to provide remedies. As the proceedings in the law courts were habitually protracted by their extreme dilatoriness, the Duke introduced, together with his new civil code, a new system of procedure, entailing, moreover, publicity in its most important stages, with the intention that the judges might be encouraged and stimulated by the knowledge that the public was observing them. Whereas, too, they had been previously paid by fees from the contending parties in civil cases, the Duke increased their dignity as well as their income by assigning them a fixed salary, and rendering them independent of the suitors to their courts. In fact, the budget was more heavily increased in respect of these judicial reforms than of any others, and yet, as it proved, without corresponding advantages. Thus the judges continued to be languid and lax, partly, no doubt, from constitutional indolence, and partly also from a morbid resentment of the rebukes which the Duke, upon the vehement outcry of his subjects, was compelled to address to them. Thus they suffered almost any consideration to outweigh the force of positive law, and acted generally as if they had a

motive and design to bring the whole administration of the law in Modena to contempt and confusion. In fact, there was reason for regarding them as the most disaffected class in the Duke's dominions, though even with them the Duke was so comparatively gentle that during his whole reign he only dismissed two of them, one for positive incompetence of the clearest kind, and one for a secret and seditious correspondence. It would have been better, perhaps, if he had been more stringent still, for their conduct on the occasion of the assassinations in Carrara showed that incompetence or disaffection was by no means confined to two of them. Although nearly forty assassinations had taken place there, not *one* of these was brought home to the criminals by the ordinary tribunals, though the military commission which followed, at the urgent solicitation of the inhabitants, speedily pacified and tranquillised the district. The event proved that many of them were accomplices of the revolution, and devoted to Piedmont instead of to the sovereign to whom they had sworn allegiance. It was men of this class who afterwards sat in inquest on the Duke, and furnished up the *discoveries* of the Modenese Commission, with all the more zest, perhaps, that they longed to retaliate the rebukes he had justly addressed to them for their notorious neglect of duty.

further in the document to warrant the positive assertion of Mr. Gladstone.*

Mr. Gladstone's *fifth* charge is founded upon a letter which he again erroneously terms an edict, and in which he states
FIFTH CHARGE. that the Duke, writing to one of his ministers, describes his affliction relative to the cases of some criminals entitled to the operation of a mitigating law, and declares that the mitigating law shall not be applicable to their particular crime.

The answer to this is as simple as the answer to the last charge, Mr. Gladstone has again misstated the facts, for instead of the criminals in question being *entitled* to the benefit of such law, this law was framed subsequently to the commission of their offence, and neither had nor was intended to have any reference to them. It was subsequent to the commission of their crime, on the 1st of May, 1856, that the new code had come into operation, and the judges assumed that this code affected the criminals retrospectively, without any words warranting this forced interpretation, and solely on the ground of a gratuitous hypothesis. Thereupon, that is to say, in the following August, the Duke made his comment on this judicial absurdity, observing that the law had been applied retrospectively by mistake, that there was nothing on the face of it to warrant such application, and reminding the judges that it was their province to give effect to the law as it stood, without speculating on intentions, or making excursions of a theoretical nature beyond the limits of its letter and text. His rebuke might have been heard with perfect propriety in an English court of justice, supposing English judges could have blundered so egregiously; and it would have been recorded to the lasting credit of his good sense. But Mr. Gladstone seems to conceive that it was particularly harsh that the Duke should complain of the carelessness of his judges in giving a couple of malefactors the benefit of a law which was never intended to apply to their case. It appears, however, that their crime was one of unusual atrocity, burglary or highway robbery

* We cannot resist the temptation to remind the reader here of the very terms of Mr. Gladstone's commentary:—"In this case the judges were rebuked, and a new trial was ordered. I do not wonder that a smile of incredulity passes over the lips of honourable gentlemen. It ought to do so. (Hear, hear.) *It would be wrong*

that in this age, and in this part of the world, one should be too ready to believe that such things could take place. (Hear, hear.)" Could we leave Mr. Gladstone a more unwelcome monitor than the reminiscence of that sentiment, so expressed, and so emphatically sanctioned by the cheers of his followers and friends?

combined with murder, and the Duke naturally protested that this was not a crime of the class to which he had intended, even in the new code, to apply any mitigating exceptions; and, that moreover, had he anticipated such a judicial miscarriage, he would have said as much explicitly in the code, while for the future he was resolved to deal with the matter specially by a new enactment. At the same time, the only action which he took in the particular cases was to send them on in the usual course to the Tribunal of Revision. The document, which we subjoin*, and which Mr. Gladstone has so mistaken, is somewhat obscure in some of its bearings, from the impossibility at this time of ascertaining all the circumstances, and from the fact that it was also a hurried communication addressed by the Duke to his Minister of Grace and Justice; but such, our readers may rely, is its substantial sense, and such is the collapse of Mr. Gladstone's accusation.

* 1st August, 1856.

Caro Cocchi,—Running over the sentence you sent me, and the dissent of the President Tassoni, here are my impressions and resolutions on the subject:—

1. That the Tribunal of Appeal acted as advocate of the culprits, and not as judge.

2. That it was not for the Tribunal to interpret my *intentions*, which had been nowise expressed.

3. That it is neither humanitarian authors nor preconceived opinions that should have force, but the law *just* as it stands.

4. That, as the law made no mention of retroactivity, retroactivity was not applicable.

5. That if, in publishing the Code, I had had in my mind the horrid double assassination of Garimberti and Guzzoni, I would have expressly declared that I did not admit of any retroactivity in the Code to such a case; and I should have said so in order to prevent the escape of two such villains (*scellerati*) from their merited penalty.

6. That I do not understand how they save Contarini from death, and in like manner Garuti, for the assassination of Guzzoni, at a time when Garuti was more than twenty-one years of age.

7. That, for a stronger intimation that I would never have saved villains like these from death, I declare that *from this moment forward* I mean to extend the exception, enacted by Article 61, Section 2, also to slaying in cases of highway robbery and burglary.

8. That I moreover discover that this last-mentioned crime of burglary is not specified in the Code, wherefore I will have it put in every respect on a par with highway robbery, as you will see from the accompanying sign-manual, by which I order you to draw up and submit to me in this sense a decree to be inserted in the bulletin of the laws, and which is to form an integral part *henceforward* of the Code.

From all this I conclude, as you will see by our other definitive decree:

1. That the Tribunal of Appeal has interpreted, without powers from us, an *intention* of our rendering the law retroactive.

2. That, therefore, I direct the Tribunal of Revision to review the sentences of Garuti and Contarini and pronounce sentence (*dare sentenza*).

Believe me,

Your very affectionate,
(Signed) FRANCIS.

To the Minister of Grace
and Justice.

Mr. Gladstone's *sixth* charge is to the effect that the Duke improperly commended a soldier who fired upon the people of Carrara without having received orders from his commanding officer, and that he improperly rebuked or implied a rebuke of that officer for omitting to give such orders to his subaltern. Now the essence of this charge consists in the assumption that the Duke was unduly disposed to rigorous measures, and that he favoured a man who complied with his sanguinary inclinations, to the relaxation of the bonds of discipline and to the extent of a disregard for the lives of his subjects. The charge means thus much, or it means very little; and as it depends on the circumstances of the case to substantiate or disprove it, these shall be set forth at length as a clear and sufficient answer.

It is material to observe the date of the occurrence in question, for it happened on the 21st of March, 1859, just before the Italian war broke out, and when martial law had been already proclaimed along the Carrarese frontier, the scene of the incident, on account of the hostilities impending and the gathering in the neighbouring district of Piedmont of armed "volunteers" for the invasion of Modena. Late on the evening of that day it appears that a patrol, commanded by one *Preci*, who was a mounted gendarme and not an officer, and consisting of six chasseurs, was proceeding southwest of Carrara along the road leading to Fantia and Avenza. At a place called Panteccinato, they fell in with a group of above fifteen persons, who, notwithstanding the state of siege or martial law had been proclaimed there, were uttering seditious shouts and singing revolutionary songs, to the disturbance of the neighbourhood. They were summoned by the patrol to desist and disperse, and this summons was distinctly addressed to them three several times, according to the legal obligation in such cases, which corresponds so closely with the English practice in the case of ordinary riot. This summons, however, was met with derision and answered by a shower of large stones. The chasseur Bisetti, being the *éclairreur* in advance of the rest of the patrol, of course incurred the greatest risk, and as the stones were flying about his head and the crowd was advancing upon him, in his own defence and that of his comrades he fired at the mob, causing the death of a certain Ceruti, of S. Ceccardo, and the hasty flight of the rest, none of whom were wounded, though Mr. Gladstone has stated that they were so.

This unfortunate occurrence was briefly referred by telegraph to

Modena; and in the absence of the details it seemed that the Chasseur Bisetti had acted rather precipitately, whereupon the Duke, to whom notice of the event was given, on the very day following the occurrence, the 22nd of March, by an autograph decree, directed expressly that there should be a regular inquiry into the case (with a view to a criminal prosecution), as to whether and wherefore the *chasseur* fired without command of the chief of the patrol, and whether, when he fired, the patrol was really menaced by a superior force of seditious rioters; and if such extenuating circumstances could not be shown, the Duke further directed that the person who fired without orders or due cause should then be brought to punishment.

Furthermore, the Duke took this occasion to impress upon the officers the necessity of giving more careful instructions to their men to follow precisely the words of command. He warned the non-commissioned officers to keep the men under them in strict order and discipline; charged them to endeavour to arrest those who might offer resistance; and if this could not be done, to disperse them by the use of their side arms; and they were never to use *firearms* except when the troops should be assailed with arms or stones, or threatened by considerable masses of people, and never, if possible, without previous instruction. Such was the Duke's sanguinary interpretation of the conditions and obligations of a state of siege.

The result of the inquiry made it clear, however, that Bisetti was compelled, under the circumstances, to make use of his arms to save himself and the patrol from being overpowered; so that the Duke hastened to declare, by another decree, of the 25th of March, that he considered the attack made upon the patrol with stones fully justified the use of arms; and that he only considered it irregular that a private should have taken upon himself to use his arms in the presence, and without the orders, of the chief of the patrol; adding that, taking into consideration the positive attack made upon the patrol, he did not hold the soldier punishable; and observing that, perhaps, the chief of the patrol merited reprehension for having induced the spontaneous act of the soldier by giving no sufficiently explicit orders to his men.* To such dimen-

* The following is the Italian text: —“In ogni modo però, dopo conosciute le offese reali fatte alla pattuglia, il soldato non è punibile e forse merita

ripreensione il Capo pattuglia per avere egli promosso l'arbitrario agire del soldato, col non avere dato alcun ordine *rigoroso* ai suoi dipendenti.”

sions is the charge of Mr. Gladstone reduced directly we come to examine into its particulars!

As there is nothing else to warrant Mr. Gladstone's misimpressions, it may be that his imputation of rigorous intentions to the Duke may have been derived from the word "*rigoroso*," employed in the above order. But to relieve Mr. Gladstone and his fellow-commentators of any misconception on this account, let us observe that the term means "*strict*" in the sense of *explicit*, and by no means implies that the orders were to be severe. If the Duke had ever invited Mr. Gladstone to dine with him the invitation would have been *rigoroso* in specifying time and place.

The *seventh* and last charge is that which we may designate as the charge of *Obscurantism*, and which Mr. Gladstone founded on a document that he says ought to be transmitted to posterity for posterity's edification. Should it so happen that the document reaches its promised destination, it would be great pity that posterity should not receive with it the explanation which it is here in our power to give as to its contents.

SEVENTH
CHARGE.

It would be strange indeed if the charge of *Obscurantism* could be fixed upon the heirs of the House of Este, who, of all men, have made the most liberal provision in their dominions for the culture of literature, science, and the fine arts. The reader will remember the appreciative German and his list of the institutions of Modena in the days of the Duke's father, and he will infer justly that Modena was then a centre of culture, not only for its own duchy, but that it radiated far and wide its educational influence throughout Italy. Lest the reader should suppose that Modena changed its character under the present Duke, it is important to state what its educational resources were up to the date when the Duke's government was violently supplanted, and before Piedmont had conceived the design, which it is about to carry into effect, to *suppress the University and Academy of Modena altogether*. Mr. Gladstone, with his honourable solicitude on behalf of the facilities for the acquirement of academic qualifications and distinctions, will thereby have a new office suggested to him, to *remonstrate with Piedmont*, while Piedmont is ruining what benighted Modena so long enjoyed. At all events he must transfer the charge of *Obscurantism* when he learns the provision for educational purposes which existed in full and

fruitful operation throughout the extent of the Duke's dominions, and to which the Duke himself contributed in the directest sense up to the date of the recent revolution.

For the provision of public instruction in Modena a special department was annexed to the ministry of the interior. The city of Modena itself was endowed with educational establishments more profusely, perhaps, than any other city of its size. Its University, one of the most remarkable in Italy, whether we regard the eminence of its professors or the value of the collections with which it was provided, received youths from the whole State for the graduate's course, and in spite of the Farini-Gladstone insinuation, without the slightest impediment as to social status, or limitation as to numbers. The usual number of students in all its faculties was about 600 at a time, a number in proportion to its population, which the Modenese State may proudly compare with the numbers at Oxford, Cambridge, London and Durham combined. In addition to which students could graduate at Reggio, and being under no obligation to come to Modena, did so graduate in numbers also considerable. In the University of Modena alone the theological faculty comprised five chairs, its legal faculty ten, its medico-surgical faculty twenty, and its philosophical faculty six chairs; and at Reggio the provision was in the same ample proportions.*

Besides the University, there were also at Modena one Gymnasium for the upper and philosophical schools; two Lyceums for the lower schools, up to rhetoric, inclusive; two Colleges, one for the noblesse and the other for the bourgeoisie; one Military Academy, in great repute, which was organised by the Duke's uncle, Archduke Maximilian, a prince of the greatest merit and ability, and in which some of the very leading Piedmontese generals of the present day received their education. There was a Mathematical School for cadets; there were public schools for the study of the fine arts, including music, and state schools even for dancing, fencing and gymnastics; and there was an Academy of the Fine Arts, which was raised by the munificence of the present Duke Francis the Fifth and his father to the rank of one of the most distinguished in Italy. Moreover

* Ghega, the engineer of the famous railway works over the Semmering, owed his scientific training to the Modenese schools; and many other

engineers now highly esteemed in Germany and even in America were also educated in Modena.

the young men who exhibited superior talents in this Academy were sent at the Duke's charge to Rome, to Florence or Venice, to complete their artistic education; and thus the Academy of Modena sent out painters, sculptors, engravers, and architects, whose merits are too well known to require panegyric here. Again, there was a school for orphans, two deaf and dumb schools, infant charity schools, night schools, &c. &c., too various to be particularised. Nor was this profusion of educational resources confined to the city of Modena, for, on the contrary, it was spread proportionally throughout the Duchy. Reggio, Mirandola, Carpi, Finale Correggio, Guastalla, Massa, and Castelnovo di Garfagnana, each had the advantage of a separate public high school, where the studies extended to the classes of philosophy inclusive, and where the instruction was either gratuitous or nearly so, and where all who wished to enter were admissible. In all the other chief communal towns there were public grammar schools amounting together to the number of twenty, which gave instruction up to the rhetoric classes inclusive, and where all were equally free to attend and study. In Reggio there was a second Academy of Fine Arts, which also produced famous scholars; while a third was judiciously kept up at Carrara, chiefly with the view of forming sculptors, where the material of their art was so abundant and accessible. The influence of this Academy is probably known throughout the world, through the names of the eminent artists it has formed, such as Tenerani, Finelli, Cacciatori, and others. At Massa, again, there was a school for sculpture; and there were schools of design at Carpi, Correggio, Mirandola, and other places; such care was there taken under the Ducal régime to bring out the special capacities of the Italian nature. Thus the schools of music were still more numerous than those of sculpture or painting, for it may be said literally that they were to be found everywhere, and down to the pettiest chief towns of communes of even the third class, any musical capacity to be found in the neighbourhood was provided with instruction and aids to its development.

What is most deserving of emphasis as regards these institutions, especially since upon this very ground they have been disparaged, is the fact that they were really accessible to everybody, either gratuitously, or at charges which are barely intelligible as compared with the cost of such education in England. Indeed, almost the only fees that existed were for the examinations for admission to de-

grees, and even these did not exceed the total amount of 300 francs, or 12*l.*, at which cost any person whatsoever might attain the degree of Doctor in Laws or in Medical Science, or the Mathematics.* Otherwise the only limitation on the number of degrees conferred was the idleness or inaptitude of the aspirant. For the Duke was in the habit of paying out of his own purse pensions in aid of meritorious students, whereby numbers of his subjects every year were enabled to cultivate their natural gifts. In fact, by one means or another, any one who had sufficient talent and diligence could rise from the lowliest estate to the dignity of a Doctor's degree, and had thus the opportunity of devoting himself to a liberal and learned profession.

Such was, in effect, the number of graduates in Modena that M. Fulchiron, a well known French statistical writer, in a work upon Italy published during the reign of Louis Philippe, estimates it as larger in proportion to the population than in any other state in Italy—Italy in the aggregate possessing more graduates than any other country. It was indeed a very curious incident of the Ducal Government that the Duke should contribute to this result so largely out of his private fortune, and the number of petitions he was in the habit of receiving from poor scholars for maintenance during their term of study, could they be marshalled together, would sufficiently dispel the notion of his obscurantist tendencies. The Commissioners of Farini, however, have printed five only, in which the Duke thought it best to refuse the petition of the applicant, while the vast heap of petitions granted are carefully concealed from sight. In some of the cases the Duke alleges some special grounds for refusing the request; but at length, such was the surplus of graduates in Modena, that he refused others avowedly upon grounds of public policy.

And indeed to tell the truth, if the truth is permissible, it turned out at last that the people of Modena were educated far beyond their natural requirements; that is to say, a larger number of persons were induced to qualify themselves for the learned professions than the learned professions could sustain in any degree of comfort. This superfluity of gentlemen, with a professional status but without a proper professional sphere, was enormously aggravated

* The theological faculty of the University of Modena was exclusively under the control of the bishops, nor did the Government interfere with this in any sense.

by the reckless mode in which degrees were granted during the revolutionary confusion of 1848. At that time, whether it arose from pusillanimity, from the fear of the poignards of candidates whose native fervour was inflamed by the prevalent revolutionary fever, or from any more sordid cause of mischief, the examiners scattered their degrees in such profusion that the designation, "*Un dottore del '48*," has been ever since a by-word of reproach in Modena. Yet these urgent and successful claimants were the victims of their own importunity, for we must remember that the Doctor's degree in law was like our call to the English bar; it was the final qualification and passport to practice; and so many persons of all ranks were encouraged to obtain it by the extraordinary facilities of which we have spoken, that in effect there was somewhat a superfluity of Doctors, and the class was more numerous than certain of a bare subsistence. If we refer to the Modenese official Almanack for 1856 (which we suggest as a desirable addition to Mr. Gladstone's library), we shall find that, besides the public functionaries, there were in that year about 500 qualified lawyers and notaries in the Duchy, all Laureate Doctors of the University. The whole population of the state being a little over 600,000, this gives a proportion of law to the wants of the population such as no other country in Europe exhibits. It followed that the surplus of lawyers had the keenest incentives to stimulate a spirit of litigation among the community, and that they resorted to expedients inimical to its welfare. Such consequences were in fact observed upon all sides, as also the needy condition of the lawyers themselves who, if possible, were more to be pitied than their occasional clients. It would have been thus a considerate thought on the part of any one to devise some means for mitigating this excessive competition and pressure. If in England the number of licensed victuallers is limited by reference to the presumed wants of its beer drinkers; if in France and other countries the same practice obtains with respect to bakers, butchers, tobacconists, and other trades, a tendency to overcrowd the profession of the law might be no less reasonably restricted in Modena. Modena, like the majority of continental countries, did not and could not offer the outlets which England so exceptionally affords to men who have mistaken their walk in life, and accordingly these superfluous Doctors of Laws were forced to remain face to face starving or struggling for each other's bread. If Doctor could be saved from devouring Doctor by elevating the standard of degrees

at the University, and so rendering the list of practitioners more select, it might have been a work of humanity if performed; and that some such conception did occur to the Duke, himself responsible in a very direct sense for the welfare of all his subjects, is evidenced by the letters which he wrote upon this distressing state of things. But when Mr. Gladstone implies that these letters were ever acted upon, Mr. Gladstone is as usual altogether in the wrong, for the plan they suggested came to nothing. Modena was a land vexed to the very last with Doctors of Law, and as a matter of course, these lawyers without clients were extremely hungry; they were the eager abettors of any revolution, and provided its perjuries, calumnies, and conspiracies cheap. It was among this class that the Dictator Farini recruited his instruments. It is to the very plethora of education in Modena that Mr. Gladstone owes his charges, and we the inference that in making this last charge he is either ignorant or particularly ungrateful.

In disposing of this last charge, in common with the rest, we have nevertheless a few remarks to make on the bearing of these charges combined. They are derived, as we stated, from the Compilation of Farini's agents, and they have had an ephemeral currency from various causes. In the first place, it was long before the friends of the Duke in this country could even procure a copy of this work, which was shaken in their faces with so much triumphant pantomime by Mr. Gladstone, Lord Granville, and Lord Wodehouse. They had never seen it previously; they had scarcely even heard of it, and their endeavours to procure it abroad were for a long time unsuccessful. The admirable speech of Lord Derby, which we print in appendix D., was delivered without the advantage of a knowledge of its contents, and even the present reply to Mr. Gladstone's charges was in the main prepared before there had been an opportunity of examining it sufficiently. It now turns out that the suspicions with which it was received, and the cautions expressed as to the accuracy of its contents, were by no means superfluous, for inaccuracies and falsifications may be detected on its very face, to which, before we conclude, it is desirable to call attention.

Among the evident falsifications of dates or other particulars, of which we find specimens here and there, we discover, for instance, that the very document last referred to, the Duke's communication on the subject of education, of December 9, 1853, is printed twice over in different places, as if with the object of increasing the bulk of the compilation. If this, however, was the object, this object has

been attained at the expense of affording unintentional evidence that these documents have been tampered with in the course of publication. In one of the versions of the Duke's letter he is made to observe that the number of admissions to degrees had reached an "*eccesso dannoso*;" in the other the superlative form is substituted, and he is made to complain of an "*eccesso dannosissimo*." Such are the petty charges, suggestive of greater frauds, which the documents have undergone from their recent manipulators, and they must be read henceforth in the light of this discovery, with the stamp of detection now affixed to them.

It will not indeed lengthen this pamphlet inordinately if we give an illustration of the petty artifices to which these fabricators of charges have descended, to give a colour to the documents here set forth. Under the heading "*Political Sentences*" (*Sentenze Politiche*), at the conclusion of the first volume, appears a list occupying twenty-three pages, and comprising a list of 518 cases, purporting to be Political Sentences, the enumeration of which is obviously intended to illustrate the severity with which the Duke, according to Signor Farini's commissioners, pursued the politicians opposed to his authority. Of these we select a considerable proportion, to show, by the very words of the Farinian Commissioners themselves, the confusion of political offences with offences of police, by which the imputations against the Duke's government have been clumsily sustained.

For example—Fifty-five of these *political* culprits (from Nos. 6 to 61 inclusive) were "condemned to the penalty of imprisonment, from one month to eight years, *for stealing timber* in the state forest of Castel Vetro, in the interval between the declaration of hostilities and the battle of Novara."

The five next political criminals on the list, Vincenzi, Sellari, Panzani, Louis and Peter Benati, were "condemned,—Vincenzi to fifteen years' galleys, Sellari to three years' imprisonment, the Benatis and Panzani to two years of like penalty; the first for *sacking* (*saccheggio*) *the house of the head gamekeeper* of the forest of San Felice, and the others for *arbitrary perquisitions in the houses of the wood-rangers*."

Eleven more *political* criminals (Nos. 82 to 92 inclusive) were "condemned to imprisonment from one month to two years, and a fine of twenty Italian *lire* each, for *poaching* in the forest of San Felice."

No. 93 of these *political* martyrs is "Charles Zacchieri of

Spilamberto, condemned to fifteen years' galleys for *beating with a club (bastone)* the peasant Gaetano Zandi of San Vito, who *died of it, on account of diversity of political opinion!*"

Four of these *political* worthies (No. 97 to 100) were condemned to the penalty of two years' imprisonment for the *political* crime of "*participation in the plundering of rice (risone)* the [private] property of the sovereign, committed in March, 1849."

Ten others (Nos. 101 to 110 in this calendar of martyrs) were "condemned to imprisonment, from six months to five years, for *domiciliary perquisitions, personal arrests, extortions of money, and for taking possession of live stock (apprensione di semoventi)* belonging to the sovereign, offences which took place at the time war was pending between Austria and Piedmont."

The next twelve (Nos. 111 to 122 inclusive) were "condemned to imprisonment for from two to four months, and a fine of twenty Italian lire for *poaching* in the preserved forest of San Felice."

The next sixteen (Nos. 123 to 138 inclusive) were "condemned to imprisonment for from one to two months, and a fine of twenty Italian lire for the same charge of *poaching* in the royal preserves."

No. 139 is a man named Marmioli, who was "condemned to two years' imprisonment for *procuring the escape from prison* of the prisoner Domenico Savigni."

Other twenty-six of these *political* victims (Nos. 144 to 169 inclusive) were "condemned to the penalty of imprisonment from one to five months, for *participating in the spoliation and sack of timber and rice*, the property of the sovereign, in March, 1849."

Again, the next twelve in the catalogue of injured politicians (Nos. 170 to 181 inclusive) were "condemned to the imprisonment they had already undergone, and the fine of twenty Italian lire on account of *poaching*."

"Artaxerxes Marchesini of Reggio, by sentence, 27th July, 1849, condemned to two months' imprisonment for *simple blows (percosse semplici)* given to two policemen (*guardie di polizia*)."

Eight more victims of political antipathies (Nos. 189 to 196 inclusive), "by sentence, 4th August, 1849, were condemned to imprisonment, from six months to one year, for *participation in the sack of the timber and rice* of the royal farm at San Felice."

The next *eight* patriotic enthusiasts on this list (Nos. 197 to 204 inclusive), by sentence, 8th April, 1849, were "condemned to the imprisonment they had undergone for having taken part in *cutting and carrying away timber* in the state forest of Montecchio."

The next *thirty* that swell this imposing calendar (Nos. 205 to 234 inclusive), "by sentence, 3rd July, 1849, were condemned to from one to six months' imprisonment for having had part in the *depredations of the wood of San Felice*."

Three politicians (Nos. 238 to 240 inclusive), "by sentence, 11th July, 1849, were condemned, the first to fifteen years, and the others to ten years' galleys, for *extortion of money* to the amount of Modenese lire, 817 : 18."

No. 241 of the list of Political Sentences is Catherina Ori, of Moccogno, "by sentence, 6th September, 1852, condemned to ten years' imprisonment, on strong circumstantial evidence, for *arson of a hay store*."

No. 301 of the patriot roll is "Bartolomeo Verzellesi of Gualtieri, by sentence, 26th April, 1855, condemned to ten years' galleys for *highway robbery (grassazione)*."

No. 304 is "Pellegrino Francioni of Reggio, by sentence, 14th July, 1855, condemned to fifteen years' galleys for *complicity in arson* of a thatched house (*capanna*)."

The 305th martyr is a political offender, with whom Mr. Gladstone has already made us more particularly acquainted, and of whom that gentleman may perhaps think he has heard enough already. It is "Carlo Granaj of Torrano, by sentence, 13th August, 1855, condemned to galleys for life for *murder*."

No. 311 is Carlo Berluchi of Miseglia, "by sentence, 18th October, 1855, condemned to two years' imprisonment for *lightly wounding (ferimento leggiero)*."

Eight victims of their political zeal (Nos. 325 to 332 inclusive) were "condemned by sentence, 28th October, 1855, Olivieri, the first named, to imprisonment for fifteen years, and Giuseppe Orsi, the second, to galleys for five years, for *attempted robbery* and resistance to the public force, and the remainder to imprisonment for from three to five years, as accessories to this resistance."

Mem.—As the names of neither Orsi nor Olivieri appear on the list of convicts transferred to Mantua, in May 1859, it may be presumed that the sentences of the above named were subsequently commuted.

Three persons (Nos. 334 to 336 inclusive), "by sentence, 3rd March, 1856, were condemned, the first to six years, and the others to four years' imprisonment, for *dangerous wounding, accompanied by personal cruelties*."

Four (Nos. 343 to 346 inclusive), "by sentence, 13th March,

1856, were condemned to from five to seven years' confinement for *wounding with malice aforethought*."

Two men named Lazzerini (Nos. 367 and 368), "by sentence, 26th June, 1856, were condemned to seven years' confinement for *attempted murder*."

Antonio Marciassi of Bedizzano, "by sentence, 11th July, 1856, condemned to twenty years' prison for *treacherous assassination*," is the 376th on the roll of wronged *politicians*.

Twenty persons, that is to say from No. 377 to 396 inclusive, and whose crime may with some apparent reason be classed as political, at least by those who consider societies for the practice and promotion of political Thuggee to be patriotic institutions, are included under the head of "*Political Sentences*;" though we learn, in the words of M. Farini's commission, that, "having been arrested and proceeded against on the charge of belonging to a secret society, they were *dismissed* from prison, the process being kept open by sentences, 17th June and 14th July, 1856."

Five more (Nos. 401 to 405 inclusive) are in like manner slipped into the list of *sentenced* politicians, although, in the words of the revolutionary inquisitors, having been "arrested and accused of *wounding*, they were *dismissed from prison* with open trial by sentence, 29th July, 1856."

Nine more (from Nos. 408 to 416 inclusive) were also, to use the words of M. Farini's inquisitors, "arrested and accused of belonging to a secret society, but were *dismissed* with open process by sentence, 31st July, 1856."

Of the three next on the list, two (Nos. 417 and 418), accused of belonging to a secret society, were "*dismissed from prison* with open process"—adding two more to the imposing list of *sentences*.

The next eleven (Nos. 420 to 430 inclusive) were, in the words of the Sentence-recorders, "arrested and proceeded against on the charge of belonging to a secret society, and by sentence, 12th August, 1856, were *dismissed from prison* with open process for insufficiency of proofs."

Fifteen (Nos. 434 to 447 inclusive) are enumerated, all accused as secret society men, of whom three, by sentence, 15th November, 1856, were really sentenced to penalties, and the remaining twelve were "*dismissed* with open process," or, as we should say, on their own recognisances.

From 451 to 458 inclusive, is a list of eight accused, of

whom four were condemned by sentence, 4th December, 1856, while the other four, who nevertheless swell the list of alleged condemnations, were *dismissed* also with open process.

Nos. 464 and 465 are two men named Gregori and Vecchi, the latter of whom only was "condemned to six months' imprisonment for assaulting a gendarme, while Gregori was *acquitted*." Yet even the acquittal is reckoned as a condemnation.

477 and 478 are "Joseph Marcucci and Peter Bordegoni, by sentence, 4th February, 1858, condemned to galleys for twenty years, for participation in *murder*."

Of Nos. 479 to 484 inclusive,—six in all, three were condemned by sentence, 4th February, 1858, Barbieri to eighteen years' galleys, Nicola and Bernabo to eight years of like penalty for complicity in murder, while the others were dismissed from prison." And thus, again, we have three condemned murderous felons canonised as political victims, and three more dismissals from prison reckoned as condemnations.

Nos. 490 and 491 are two men named Bennati and Campidelli, who were condemned "by sentence, 17th April, 1858, to the penalty of death for burglary and rapine."

Mem.—These culprits must have escaped with very slight punishment, notwithstanding that death was recorded against them, for they were not among the felons still in gaol, when the criminal prisoners were removed to Mantua the year after; and we know already that they were not of those five who alone suffered capital punishment during the Duke's reign.

Nos. 504 and 505 are Domenico Donnini and Romano Poli, who, "by sentence, 26th May, 1858, were condemned to the penalty of death for *highway robbery*."

Nos. 506 to 508 are three criminals, who were "by sentence, 23rd June, 1858, condemned, the first to twenty years' galleys, and confiscation of his goods, and the others to eighteen years' like penalty, as secret society men, and for *complicity in murder*."

Nos. 509 to 511 are three more criminals, who were "by sentence, 24th June, 1858, condemned, the first to twenty years' galleys, the second to six years of the same penalty, and the third to eighteen years' penal servitude, as secret society men and accomplices in *murder*."

Nos. 512 and 513 are Adriano Partigiani and Joachino Pucciarelli, "by sentence, 9th December, 1857, condemned to the penalty of death for complicity in *murder*."

Of Nos. 514 to 518 inclusive, being the five last on the list, the

first, named Sebastian Guadagni, was condemned to death, and the others to eight years' galleys, for murder, and belonging to a secret society.

In analysing the entire list of the 518 sentenced politicians*, we find that sixty-four were simply dismissed, while 264 were condemned for almost every variety of ordinary crime which the calendar contains—poaching, highway robbery, assault and battery, burglary, arson, pillage of crops and timber, extortion of money, maliciously wounding, murder, and attempted murder, &c. &c.—all of which crimes are compassed in the drag-net with which the company of Farini and Co. swept the criminal records of Modena for evidence of the *political* intolerance of the Duke. Even of the residue scarcely one could be strictly designated as political offences, nor would they be regarded in our own or any country of Europe otherwise than as offences against law and social order. Yet such is the nature of the evidence alleged to convict the Duke of political tyranny, and such is the dishonesty, we may add, which pervades the entire Compilation.

In turning from this truly fraudulent farrago, on which we have no occasion to comment further, it is hardly superfluous to add a word on the obstacles encountered in replying to it, even at this date. Not only was it, as we stated, with difficulty, and after much delay, that this Compilation was procurable, but when at length a copy had been obtained in England it was necessary to refer far and wide for explanations of the points in controversy. The archives of Modena were no longer accessible to the friends of the Duke, and this vindication of his conduct was therefore attempted under all the disabilities arising from the fact that the very best evidence which could be cited in his favour was retained exclusively in the hands of his enemies. Under these circumstances it was necessary to appeal to the recollections of gentlemen who had been personally conversant with these transactions, and who, with little more than the text of these

* One hundred and fifty-four of these very cases are again catalogued in another place (vol. ii. pp. 164—251), so as to swell the Compilation by eighty-seven additional pages; while in the same place (p. 228) the deposition of the Prisoner's Advocate, Montanara, is unwittingly added, to the effect that some of them were let out of prison,

that the majority were condemned to two or three months' imprisonment or more, but "*that in general the sentences did not seem to him heavy, and the accused did not show themselves, on the whole, discontented.*" He adds that the only thing they objected to was the solidarity, in some instances, of the very petty fines imposed.

volumes before them, were invited to explain the bearings of the documents they contain. Be it added that these gentlemen were scattered by the Revolution, that one was in one place, another in another, and that, although they cordially entertained and ably answered every successive application which was made to them, their information was received in a fragmentary form, and its value was only ascertained by instalments. If, under these conditions, an answer has been made to charges, which it cost Farini's commissioners two years to produce, with all the midnight oil of Modena at their disposal, or, as they put it themselves, with unlimited candles, our readers will perceive how ridiculously weak must be the case which breaks down instantly under such an examination.

Frivolous as this case is, it has probably served the purpose of its fabricators, of whom Mr. Gladstone has been made the mouthpiece and convenient instrument. It has affected to justify the seizure of Modena by Piedmont under circumstances which we have little occasion to recall, inasmuch as there is evidence of their real nature contained, unwittingly, in this very publication. Thus, among the acts, secret and sinister, which are published by this Commission for the discovery of tyrannical mysteries, there appears (Vol. I. P.I. pp. 176—178) the very last public proclamation of the Duke, by which, on the eve of retiring from his States, he instituted a Council of Regency to govern in his absence. This proclamation bears date, Modena, 11th June, 1859, and was placarded (this secret and mysterious document) on that very day on all the walls of Modena, and generally elsewhere throughout the Duke's dominions.

It begins :

We Francis V. Duke of Modena, &c. &c., "In consequence of the invasion that has taken place of a portion of our States on the part of Sardinia, which having declared herself in a state of war with us, does not omit perfidiously to excite to revolt the various villages as soon as the regular troops are withdrawn.

"In face of the permanent menace on the part of France, who, as the ally of Piedmont, has already led a numerous *corps d'armée* into the neighbouring Tuscany, and has pushed forward considerable forces upon the frontier, which are daily increasing in number, and are even making incursions into our State with the manifest design of invading it very speedily.

"In the presence, finally, of the events that have taken place in the neighbouring State of Parma, which facilitate more and more the invasion of the enemy on that side, and in order not to expose our subjects to the ills inseparable from a defence which in this moment would probably be fruitless, we have determined to retire from this capital with the greater part of our faithful troops."

This proclamation and retirement of the Duke bear the date of 11th June; that is, nearly three weeks after the action of Montebello (20th May); a week after the battle of Magenta, which decided the fate of Central Italy (4th June); six days subsequent to the evacuation of Milan by the Austrians (5th June); four days later than their evacuation of Pavia (7th June); three days after the action of Marignano and the occupation of Bergamo by Garibaldi; two days after the Duchess of Parma had absolved her troops from their allegiance, and the abandonment of the fortified city of Piacenza by the Austrians. The French were descending the Apennines into the Duchy. The Duke then retired, neither flying from insurrection which existed not, nor defeated in battle, but simply as a strategic necessity of the concentration which his allies, the Austrians, were operating from Ancona, Bologna, and Ferrara at this very moment. He could not, of course, make head alone against a great European power; and he retired at the head of all his own troops, and not a few of the Parmesan soldiers and officers who had joined him, marching at the rate of ten miles a day slowly, the forty miles of road that separate his capital from the Po frontier at Borgoforte. On the 12th he left Carpi; on the 13th passed with his troops through Guastalla, and on the 14th passed the frontiers of his dominions, crossing the Po at Borgoforte.

So little was there of a spirit of revolt or of discontent in his dominions, that even after he had retreated with his troops from Modena, the government was still exercised for two days in his name by the Council of Regency he had instituted. After these two days, when the Austrians were in full retreat, and already near the Mincio, on the 13th June, amidst the general consternation and discouragement of the majority, the ducal Regency was, however, upset, and a provisional and Sardinian government substituted by a faction in Modena, for which neither the character of the Duke's government, nor any estrangement on the part of his subjects, and still less any substantial rising in his dominions, afforded its contrivers the shadow of a pretence. In spite of its merits and its general popularity, the Duke's government succumbed to the foreign pressure all around it, and a population as loyal as any in the world abstained from a hopeless demonstration in its behalf. As is always the case when a hostile force of overpowering strength is approaching, the helplessness of the stoutest and truest hearts, the pusillanimity and terror of the masses of peaceful citizens allowed a few malcontent and ambitious partisans

to usurp their functions and misrepresent their wishes. Acquiescence in such a state of things was inevitable, and some were of course forward enough to express their subservience. We may ask indeed, whether, in similar emergencies, this is not the experience of every conquering invader? Are there not, everywhere, in larger states than Modena, men who eagerly worship the rising sun, and who make a profitable merit of their early adherence to the foreign cause? Was it not so in free Switzerland, when the French invaded that country towards the close of the last century? Was the *Deutsche Rhein* always unanimously defended at a later date against the approach of a menacing foe; and were no German courtiers to be found in the palace of the ephemeral Bonapartist king of Westphalia? Were none found on any occasion even in Spain, that classic land of chivalric loyalty? Had Russia no native accomplices in the partition of Poland? In all these countries men of honoured lineage and names of previously untarnished fame are to be found among the courtiers of usurpation; while in Modena none but a few individuals, obscure and worthless, were found to rally to the standard of a foreign sovereign, whose action was so independent of them all that he issued on the 9th of June a Proclamation, countersigned by the conspiring minister Cavour, usurping authority over the revenues and administration of Modena *two days before the Duke retired from its capital*.*

We might refer to the circumstances under which he retained his spoil in violation of his plighted word and engagements. As Lord John Russell observed to Count Cavour, this time last year the King of Sardinia was under no compulsion to accept the preliminaries of Villafranca, but having given his royal word to observe them, he was no longer free to repudiate them. The obligations which he thus assumed bound him quite as rigidly with respect to the dominions of the Duke of Modena as with respect to the Quadrilateral. Both were equally accepted by him as the conditions on which he acquired the rich gift of Lombardy.

* A refugee advocate named Zini arrived from Sardinia, and, in the avowed capacity of "*provisional Commissary to the King of Sardinia*," established the Provisional Government above mentioned. In a proclamation published in the official *Modenese Gazette* on the 15th of June, distinct opposition to his authority having mani-

festated itself, he threatened the political dissidents generally, that they should enter, "*will ye, nill ye*" (*volere o non volere*) "*into a new order of things*," (*in un nuovo ordine di cose*). The very first act of this Sardinian agent was to decree the immediate sequestration of the Duke's *private* property.

But Modena was for the moment at the mercy of fraud and violence combined, and the express stipulation in this case was therefore disregarded. The Quadrilateral was in a different position. There, where Austria guards the gates of the East in our interest as well as her own, force guaranteed right, and Piedmont might talk without daring to attempt its capture. Modena was simply defenceless when its army was withdrawn, and was exposed to intrigues and the menaces of a superior force. Under these circumstances the King of Sardinia could return as it were to the battlefield, and filch the booty which after the fight he had solemnly engaged to relinquish.

If in this way an open robbery was accomplished, and if fraud now lends a gloss to violence, that is to say, if conspirators of twelve years' standing are to be absolved by fabricators of evidence on the principles of Salvagnoli, even those who bow to these novel principles must yet affirm their injury to Modena. Its peasants and proprietors will discover the injury in the absence of the liberal encouragements to which they have been accustomed, as they have found it already in an increased and increasing taxation. Furthermore, the moral and intellectual fruits which ripened, thanks to a munificent and fostering hand, must inevitably dwindle now that this civilising influence is withdrawn. Already the University of Modena is doomed, and this is but a foretaste of the other losses coming. The centralisation which destroys such minor courts, if it is really destined to any duration, must obliterate the old autonomous spirit which is still so strong in various parts of Italy, and must so entail the evils of absenteeism, that the old local and distinctive culture will die out. That which has been the boast of Modena, of Parma, of Florence, and of Naples also, will become just as much a thing of the past as the culture of Ferrara or of Urbino, which expired with their existence as separate sovereignties, or as that of any of those little courts, the centres of so many civilising arts, and the homes of so many famous men who are the lasting adornment of the Italy of our sympathies. If the annexation to the Piedmontese crown be the final destiny of this little state, which concerns us more especially, it is hardly likely that Modena will have again to boast of being the home of a Muratori, a Tiraboschi, or a Cavedoni. A few ambitious men might possibly obtain a wider field of labour and more exciting occupation elsewhere; but speeches in an Italian Parliament, held in a distant capital, will be a barren recompense to Modena for

the local bereavement; and any Modenese who would lend a hand to consummate this sacrifice is adopting a policy which, if successful, would be simply suicidal; while he acquiesces in a violation of the laws of public morality as gross and as flagrant as any on record.

APPENDIX A.

CORRESPONDENCE BETWEEN THE MARQUIS OF
NORMANBY AND MR. GLADSTONE.*The Marquis of Normanby to Mr. Gladstone.*

HAMILTON LODGE, July 9, 1861.

DEAR MR. GLADSTONE,—When I found myself obliged last night to postpone my motion, and could only fix it for a distant day, I stated that I much regretted the delay, as I could positively disprove the calumnies injuriously affecting the character of the Duke of Modena, the person attacked in the publication to which I should refer. I added that if “any one anywhere” had given additional publicity to groundless charges, I was sure that when he heard the truth he would be the first to express his regret that he had been deceived by those whom he now found unworthy of credit. In obedience to the somewhat capricious observance, in this particular instance, of the strict rules of order required by some of your colleagues, I stated the case hypothetically; but I am sure you would not the less feel the responsibility of the charges you have distinctly made, and if convinced that some further step on your part is required, all must agree that the sooner it is taken the better.

You are probably aware that the object of the commission from whom this publication emanated was to collect and give to the world garbled extracts from the confidential correspondence between the Duke and his private secretary, to obtain which the desks of both had been rifled. I am told by a trustworthy person acquainted with all the circumstances of the case, that in order to produce an unfavourable impression abroad (for the book was little circulated where the facts were known) this commission falsified the chronological order of the documents, perverted their sense, adulterated their substance, and the whole product of their labours became a work of false suggestions, of fraud, and of forgery. I do not expect you to adopt that view from any statement of mine. I have in my hands ample materials for contradicting every one of the seven charges which you made your own by adoption, but I think if I can give you the means of satisfying yourself that the most odious charge is a malignant falsehood on the part of those who imposed it upon you, you will feel that not

much credit can be given to the minor allegations, which are mostly mere matter of inference.

You are reported to have stated distinctly :—"A young man of seventeen, of the name of Granai, of Carrara, was found guilty of murder or manslaughter. The law of Modena does not permit capital punishment under the age of twenty-one. After the trial, the Duke of Modena sent forth an edict, declaring that notwithstanding the law the young man should be executed." Now no such edict ever existed. No man of the name of Granai was ever tried for murder: therefore none such was ever executed. On examining the notes of the presiding judge, General Gentile, it is found that a certain Antonio Granai, aged seventeen, was imprisoned for two days for refusing to give evidence; but I understand that there is no trace of a criminal process of any kind at that time against any person of that name. There is a striking fact bearing upon the impossibility of the truth of that charge, "that during the whole of the Duke's reign of thirteen years, there have been but five cases of capital punishment, all of persons of mature age, and for atrocious murders." Great care was taken not to circulate these infamous calumnies where there was any fear of contradiction. The Duke of Modena never heard of these charges till he read your speech, and, I am informed, exclaimed with honest indignation, as to this particular charge, "If this were true I should feel myself morally guilty of murder." His Royal Highness may well think he has a right to complain that a minister of the British Crown should make such a charge without taking any previous pains to ascertain the truth. You will therefore excuse me for reminding you that there is a very easy method of putting yourself in a position to do tardy justice to the Duke of Modena. You can get the Foreign Office to telegraph to Mr. Walton, Her Majesty's Consul at Carrara, and ask these simple questions :—"Was any man of the name of Granai ever convicted of murder within your recollection? Were more than five persons ever executed during the whole of the Duke of Modena's reign?" You will see that I am very confident as to the authenticity of my information; and all I ask of you is thus to test it.

If you do so, I am convinced that in a few hours you will be in a position to do justice to the upright and unfortunate prince you have wronged, in the place where the injury was inflicted. And I am sure that you will feel that he does not the less deserve strict justice at your hands because he is utterly defenceless, since he was driven from his dominions by the overwhelming power of the arms of France and Sardinia.

Yours faithfully,

NORMANBY.

Mr. Gladstone to the Marquis of Normanby.

11 CARLTON TERRACE, *July 9, 1861.*

DEAR LORD NORMANBY,—I have just received your note, and in reply I cannot admit that, as at present advised, I have done wrong to the Duke of Modena. I have not made a single charge except on the authority of published documents, construing them to the best of my ability. These documents had been before the world for nearly two years, I think, at the time when I cited them, and

their authenticity had never, to my knowledge, been disputed. Such being the case, it was, I think, my duty to assume them to be authentic. Nor, indeed, do I gather from your note that it will now be alleged they are forgeries. If I have misunderstood them, and mis-stated their natural meaning, then I have done wrong, and, upon being convinced of it, will express my regret with a strength of language proportionate to the gravity of the charge which may have been made in error. According to my confident recollection I did not state that Granai was executed. What I believe I stated, and what I think the document strictly justifies, was, that the law was altered *ex post facto*, so as to include his crime; and I contrasted this proceeding with another in which certain criminals appeared to be denied the benefit of an *ex post facto* mitigation which had been decreed, I think, between their conviction and their apprehension. If this and other documents are forged, no words can be strong enough to denounce the baseness of such an act. If they are not, I believe you will not shake an atom of my statements of fact, nor do I think much can be said against the colour that I gave them. Will you permit me to express my regret that the task of vindicating the Duke of Modena does not devolve upon one or other of the very zealous men who uphold in the House of Commons opinions on Italian affairs resembling those of your lordship? I venture to think the practice of answering in one house speeches made in another so exceptionable, that I have never on any occasion adopted it, and do not foresee that I ever shall. I will read your Lordship's letter to Lord Wodehouse, who has possession of my papers; but I doubt whether he ought to make inquiry upon an isolated question until we know the whole of the statements which are about to be made, and into which we have no opportunity afforded us of inquiring.

I remain, my dear Lord Normanby, very faithfully yours,

W. GLADSTONE.

The Marquis of Normanby to Mr. Gladstone.

HAMILTON LODGE, July 10, 1861.

DEAR MR. GLADSTONE,—There is only one point in your letter to which I feel it necessary at once to call your attention. You say, "According to my confident recollection I did not state that Granai was executed." I read this sentence with a surprise which I am sure will be shared by every one who has seen the reports of your speech, either in the most authentic records we have here, or in the best translations in the foreign papers. In all these identical words appear—"After the trial of Granai, the Duke of Modena sends forth an edict that notwithstanding the law the young man should be executed." And here you are supposed to have stopped. Now, you must feel that if any one else had used these words the inevitable impression on your mind would have been that the sentence had been carried into effect, unless these words were added, "I must admit that no execution took place." I feel certain that all those who heard you looked upon this execution as the gravamen of your charges. When you know from me that the Duke of Modena shared in this respect the universal impression as to the obvious meaning of your words, when you hear that he indignantly used this expression, "If this were true, I should

feel that I was morally guilty of murder," I appeal to your sense of justice whether you should lose four-and-twenty hours before publicly declaring that you are now aware that no such execution ever took place. This is not a question as to answering in one house any debating speech which was made in another. It is simply this — whether a minister of the Crown should allow an accusation to be circulated throughout Europe, in his name, of "moral murder" against an exiled prince, with whom his sovereign was always on terms of friendly alliance; and this, too, after that minister disclaims the interpretation of his words on which the charge is founded.

All other questions raised by the selections from this book, which are coupled with your name throughout Europe, may well be reserved till I bring on my motion. Having been the Queen's representative at Modena during most of the years to which these charges refer, I feel it my special duty to re-establish the truth; and I shall call for my periodically renewed reports of the state of Modena, that they may be judged side by side with the selections you have made from a publication founded, as it appears, on garbled extracts or the alleged substance of stolen private documents never seen by any but the compilers.

Yours faithfully,

NORMANBY.

Mr. Gladstone to the Marquis of Normanby.

DOWNING STREET, July 10, 1861.

DEAR LORD NORMANBY,—I cannot undertake to state, as you require, within twenty-four hours, that I "am aware that Granai was not executed." First, because what you stated in your letter yesterday is wholly at variance with the printed document, and you do not inform me, in reply to my letter, that that document is falsified or forged. Secondly, because I have recently been told that Granai was executed; and though I do not absolutely assume this to be correct, yet I cannot certainly assert the contrary. I have no doubt the Duke of Modena speaks what he believes to be true, but one of the curses adhering to certain systems of government is that the denial of publicity to the subject places the sovereign in the hands of ministers, and each class of governing agents in the power of those who are below them. I do not believe the King of Naples knew a fifth part of the horrors that were perpetrated in his kingdom.

I am not a little astonished to be challenged, after five months of anxious and varied business have intervened—I mean not to have been challenged before, if I was challenged at all—upon the accuracy of a particular expression for which I am not responsible, and which I have never read. I will, however, investigate that matter, as well as I can, by comparison of reports, and let you know the result. Meantime I restate the charge which I meant to make, and which, I believe, I did make. It was this, that while the benefit of *ex post facto* mitigatory legislation was denied to certain criminals, capital punishment was, by *ex post facto* legislation, made applicable to the crime of a certain youth named

Granai. I state this thus plainly that you may be able to affirm or deny it, and to apprise me whether the published document from which I spoke is or is not falsified or forged. It is surely grave enough to demand attention.

I remain, dear Lord Normanby, faithfully yours,

W. GLADSTONE.

The Marquis of Normanby to Mr. Gladstone.

HAMILTON LODGE, July 11.

DEAR MR. GLADSTONE,—After your letter of yesterday I feel it to be quite useless to continue any correspondence with you on the subject. I shall therefore reserve the whole case of the Duke of Modena until my motion on the 22nd instant.

Yours faithfully,

NORMANBY.

Mr. Gladstone to the Marquis of Normanby.

July 11, 1861.

DEAR LORD NORMANBY,—I have now consulted all the accessible reports of the passage in my speech to which you have referred, and though I cannot remember my words, I think the fair presumption is that I said the Duke issued an edict for the execution of the youth Granai. What I ought to have said was, that the Duke issued an edict *ex post facto*, bringing the crime of that youth within the category to which capital punishment was applicable. I am most ready to explain, without delay, this difference, and to express my regret for having stated as the meaning of the edict without any qualification what, though I might have argued it was the intention of the paper, was not its necessary import.

But I am desirous, in doing this, to do all that may be right. Is there more which, from the contents of the paper itself, I ought to say? That there may be no doubt on the subject, I send you a copy of it. If it is within your knowledge that in any other respect I have mistaken the meaning of it, I am most ready to be corrected.

Yours faithfully,

W. GLADSTONE.

(TRANSLATION.)

"To the Minister of Grace and Justice.

"Seeing the atrocious case of the assassination committed by a certain Granai of Carrara—seeing that the sentence relative to it is based on the local statute

that the assassin cannot be condemned to death because he has not attained the age of twenty-one years :

" Seeing that it is not in the project of the new criminal code to make any other exceptions upon this point, except the crimes of sacrilege and high treason, we ordain that such exception applicable to the two crimes here above cited shall be extended to all kinds of premeditated homicide, or committed without that adequate provocation which might be pleaded as such.

" FRANCESCO.

" DOTTOR CARLO PARISI, Segretario di Gabinetto.

" PAVULLO, 27th August, 1855."

The Marquis of Normanby of Mr. Gladstone.

HAMILTON LODGE, July 12.

DEAR MR. GLADSTONE,—I received last night, just before I was obliged to go out, your announcement that you had convinced yourself that you must have said that "the Duke of Modena had issued an edict for the execution of Granai, and that you were ready to express your regret on that point;" and I have also to thank you for inviting me to say whether there is any other statement connected with this charge, in which I consider you to have been in error, as you are anxious to do "all that is right." For this I give you implicit credit. I shall, therefore, in as few words as possible (since I quite feel with you the importance of the explanation being made without delay), give you my opinion with the candour you desire.

After your avowal of the general opinion which you feel must have been derived from your reported words as to the execution of Granai, I have no doubt your feelings will induce you to express yourself satisfactorily as to having been unfortunately the means of propagating throughout Europe so cruel a charge. And here I would willingly leave this point but for a phrase in your letter of the 10th: "I have recently been told that Granai was executed." It was this apparent willingness to revert to a charge which I believed to have been disclaimed, which induced me in my note of yesterday morning to declare as useless any further correspondence on the subject. All I wish now to say is, that I trust you will not hereafter place any reliance on the statements of the person, whoever he may be, who attempted to palm upon you this wanton falsehood. Now, without stopping to quote the words of your letter, for which I have not time, I regret to have to tell you that what you think you ought to have said is still far removed from a correct statement of the facts of the case, as gathered accurately from the papers you quote.

In the first place, the paper you send me is not an edict that was ever published: both its form and its substance show that it could not be. It is merely a minute of the Duke's, written and countersigned by his private secretary; which, after the revolution, was stolen from the cabinet of that secretary, and used for their own purposes by the Piedmontese Provisional Government. This was the form in which His Royal Highness conveyed his confidential instructions to his departmental ministers. That minute addressed to the Minister of Justice points out some alterations in the new criminal code.

If it had been a published edict it must have been countersigned by that minister, in the proposed amendment of the code then under consideration. The monstrous crime committed by this Granai in the year 1855 makes His Royal Highness think it desirable some further alterations should be made with regard to the crimes to be excepted in the future code. Now, so far from justifying the assertion that the Duke intended to make an *ex post facto* law, it proves directly the contrary; as by the first paragraph the Duke distinctly adopts the inadequate sentence against Granai as prescribed by law. Before I went out last night I made a literal translation of the document you sent me, which you will see cannot be otherwise construed. Therefore, in answer to your appeal as to what you ought to do, I would say—1st. As to the charge of the execution of Granai, act according to your own feelings. 2ndly. Admit that there is no proof that the Duke ever published an edict as to the case of Granai. 3rdly. Explain that the minute you have seen has no one character of an *ex post facto* law. I send you my translation. I am sure it is correct.

Yours faithfully,

NORMANBY.

Mr. Gladstone to the Marquis of Normanby.

11 CARLTON TERRACE, July 12, 1861.

DEAR LORD NORMANBY,—I will endeavour to get at the bottom of the Granai case, as far as the whole of the printed documents will enable me; and I will explain to the full extent which the evidence will warrant it, either to-day or Monday, as I may be able.

Those who told me that Granai was executed, did not state it as final or authoritative information; and what appears probable, as far as I have yet gone, is that he was sentenced to be confined to the galleys for life. I should have thought these published documents must have passed into the hands of the Duke and his friends.

They are, however, ill-arranged as well as voluminous, and hence it is that I am reluctantly obliged to hesitate about saying at once what I may have to say.

Faithfully yours,

W. GLADSTONE.

Mr. Gladstone to the Marquis of Normanby.

July 12.

DEAR LORD NORMANBY,—I am now in a condition to tell you what, from the documentary information in my hands, I can consistently and properly state in reference to the youth Granai, and to the charge against the Duke of Modena of having brought homicide by youths under age within the reach of capital punishment by means of an *ex post facto* law.

I fear it may not give you much satisfaction.

1. I think that I put a construction on the document I cited beyond what it properly bears. It is certainly not an order for execution, and I am ready to express my deep concern for having used words that might fairly be held so to describe it. And though I think that the order apparently indicates an intention of operating *ex post facto*, it may, as a single document, be otherwise construed.

2. I do not assert that Granai was brought within the operation of the law, and such evidence as I possess appears to show that he was not put to death, but sent to the galleys for life.

3. I am sorry to say that the general charge remains in full force, and with circumstances of aggravation. In September, 1857, the Duke, by decree, appointed a military commission—apparently a commission of Austrian officers—to try persons charged with homicide, and authorised this commission to try all pending causes of that class in which the act was charged to have been committed anterior to the appointment of the commission, and since the (previous) “state of siege” had been abolished persons capitally condemned were to be executed within twenty-four hours.

4. On the 7th of October in the same year the Duke authorised the military commandant to apply this capital punishment to youths under eighteen years of age, and, combining this with the last paragraph, giving the law *ex post facto* operation, you will see that the *ex post facto* operation is made applicable to youths under eighteen. The Duke of Modena at the same time alters the law of the country by admitting the evidence of accomplices and that of soldiers; that is to say, persons under the military control of the judges themselves. I quote from the same repository of published documents, and not from any comment upon them. Might I venture to recommend your personal inspection of the collection? I am quite ready to make or not, as you think fit, an explanation to the effect above described.

And I remain faithfully yours,

W. GLADSTONE.

The Marquis of Normanby to Mr. Gladstone.

HAMILTON LODGE, July 13, 1861.

DEAR MR. GLADSTONE,—If you adhere to the intention you announced to me of taking the earliest opportunity of expressing your regret as to the errors into which you had fallen yourself and led others upon the only grave charge you had made against the Duke of Modena, referring exclusively to the case of Granai in 1855, I can have no objection to the manner in which you propose to do so. But if you mean to avail yourself of that opportunity to bring forward new charges against the Duke, I must protest against the unfairness of that proceeding, although I happen to have in my hands authentic materials for contradicting the fresh allegation relating to quite a different period put forward in the letter I have just received.

Should you persevere in this strange method of making amends for admitted mistakes, I shall give these additional contradictions when I dispose, I trust satisfactorily, of the other five minor charges, which throughout Europe are

only known as coupled with your name. On that occasion I, of course, reserve the option of using our correspondence as the best mode of doing full justice to both parties.

Yours faithfully,

NORMANBY.

Mr. Gladstone to the Marquis of Normanby.

11 CARLTON TERRACE, July 15, 1861.

DEAR LORD NORMANBY,—If you think fit to supply me with the evidence on which you are prepared to contradict the documents referred to under Nos. 3 and 4 of my last letter, I shall be most happy to consider it. If you do not, I shall then state, with your approval, that you have apprised me you mean to contradict, but have not been disposed to put your proofs in my hands. I have no intention of bringing any new charge against the Duke of Modena. I think it would be ungenerous to do so in connection with an explanation such as is intended. But my charge was, that he had by an *ex post facto* edict brought youths under age charged with homicide within reach of capital punishment. This charge I unfortunately find to be true, and I therefore cannot recede from it.

You treat what I said about Granai as the principal charge, and the others as minor. Of course it is open to you to classify them as you please. But the classification is yours, not mine; I did not treat it as the principal charge. I look upon all these charges alike as mainly important, from their tending to illustrate that character of real lawlessness which unhappily distinguished the Government of Modena. What I understand you to ask is this, that when I state my charge not to be proved by page 6, I should refrain from stating that it is more than proved by pages 11—14. To this I think your Lordship will see I could not accede.

I remain faithfully yours,

W. GLADSTONE.

The Marquis of Normanby to Mr. Gladstone.

HAMILTON LODGE, July 16, 1861.

DEAR MR. GLADSTONE,—I never saw the publication to which you refer, nor do I know anything of its contents except from the selections you yourself made; but I know the infamous means by which it was concocted and the disrepute in which the character of the compilers is held. It was never communicated to the Duke of Modena, and neither he nor his friends ever saw it, nor had their attention been called to the charges except by the translation of your speech. But for that they would not have condescended to notice anything coming from so impure a source. Therefore, I positively decline to discuss by letter any new charges which you have taken from that book. If you

choose to enter into a new campaign under the auspices of these persons, I have no doubt I shall, on Monday next, have so many more opportunities of proving how you have been deceived. I think it fair, however, to caution you against proceeding with the levity shown in your letter of the 12th, when you talk of the commission "apparently composed of Austrian officers." Can it be possible you have spoken and written all this about Modena in ignorance of the notorious fact that every Austrian officer had been removed from the Duchy with the army of occupation eighteen months before the period to which you refer? If you choose to introduce these topics, and to say that I was not disposed to put my proofs into your hands, you will of course give my reasons for such refusal; but I trust you will see that it is better on every account to confine your explanations to those points on which you feel yourself indisputably wrong, by which means you will do the best in your power to remedy the personal injury you have inflicted.

Yours faithfully,

NORMANBY.

APPENDIX B.

CORRESPONDENCE RESPECTING THE AFFAIRS
OF MODENA.—1855-58.

Presented to the House of Lords, by command of Her Majesty, in pursuance of their Address dated July 22, 1861, to which are added two subsequent Despatches of Count Forni, the Modenese Minister of Foreign Affairs, to Count Cavour.

No. 1.

The Marquis of Normanby to the Earl of Clarendon.

(Received April 16.)

FLORENCE, *April* 10, 1855.

MY LORD,—Whilst I was at Modena there was already question of the speedy withdrawal of the Austrian garrison, consisting of about 1000 men, from the Duchy; but it was then thought that the Duke was likely to suspend for a time any representation to the Government of Vienna on the subject, on account of the unsettled state of the neighbouring Duchy of Parma. But as *the Duke of Modena, though severe, has universally the character of a just man*, it was not likely he would long postpone a relief which he had convinced himself he might safely grant to *his people, who are already the lightest taxed in Italy*, but who *have now, for some time past, shown themselves also the best disposed and most loyal*.

I now understand that the application for the withdrawal of the Austrian garrison has actually been forwarded to the Imperial Government at Vienna.

It cannot be denied that this step for the moment increases the difficulties of the Duchess of Parma's position. There would, no doubt, be some present danger in following the Duke's example; and she would, on the other hand, be subject to invidious comparisons if she were to maintain in her capital foreign troops, when they shall have been drawn from those of Tuscany and Modena.

But I do not think the danger would extend beyond momentary mischief, though when one recollects how reckless of consequences, and how unscrupulous as to means, have been the attempts of the ill-disposed amongst the population of Parma, one cannot wonder that a woman and a mother, whose father and husband had both been victims of political assassination, should tremble for the possible consequences.

I believe, though, that Her Royal Highness' troops are well-disposed and inclined to sympathise thoroughly in her determination to do her best to preserve the throne of her son.

The Parmese troops acting in concert with the Austrians, showed at least equal energy in suppressing the insurrection of July last; and your Lordship is aware that Piacenza, within a day's forced march, has always been garrisoned by Austrian troops.

At the same time, whatever determination the Duchess of Parma may take in consequence of the decision of the Duke of Modena, hardly a week passes without alarm being given as to the desperate projects of some secret society, with whose machinations the assassination of the Duke is on the spot generally connected.

Whilst I was staying at Modena there was current a report of the discovery of a plot at Parma, having for its object the destruction by fire of the palace and theatre, which are under the same roof, and in both of which the flames were simultaneously to have broken out in different parts. Some unexplained arrests, no doubt, took place at that time; but I gathered from subsequent inquiries at Parma, either that the extent of the design had been assumed upon uncertain grounds, or that there existed naturally a great desire not to give unnecessary publicity to an abortive attempt of so diabolical a character, unhappily of such easy execution, and which was calculated to excite that universal alarm which has always been one of the most powerful assistants of the revolutionary party.

As far as the Duchy of Modena is concerned, the withdrawal of the Austrians can only indirectly affect the security of His Royal Highness' other State, the Duchy of *Massa-Carrara*, by preventing his having so many of his own small disposable force to send there in case of necessity. *The population of those parts is represented to be some of the worst disposed in Italy, and political assassinations in the town and neighbourhood of Carrara have latterly been so numerous as to create an universal feeling of insecurity. A wild mountain frontier defies the efforts of an inadequate police to guard against the entrance of the worst spirits from the Genoese side.*

Of this part of the country I have no recent personal experience, and I am only repeating what has been told to me, by Genoese and Piedmontese worthy of credit, that in no part of Europe does there at present survive more of that revolutionary spirit of a socialist character, which was the ephemeral creation of the crimes and follies of the year 1848, than is still to be found amongst the thickly studded population inhabiting that beautiful line of coast which, to the east and west of Genoa, runs in a narrow strip between the Apennines and the sea.

I have, &c.,

(Signed) NORMANBY.

No. 2.

The Marquis of Normanby to the Earl of Clarendon.

(Received August 30.)

FLORENCE, August 23, 1856.

MY LORD,—I arrived at Modena from Piacenza on the evening of the 17th instant, and received at once a visit from Count Forni, the Minister of His Royal Highness. As the public papers have spoken, within the last few days, of a note of considerable acerbity which had latterly been addressed by the Modenese Government to that of Sardinia, I at once asked Count Forni to explain to me what had occurred, premising that, however annoying it might be to the Modenese Government to have attempts of a subversive character organised on the other side of the Sardinian frontier, I trusted that in any representations there had been no attempt made to impute previous knowledge to the Sardinian Government; that any allegation of that kind was almost incapable of proof, and was only calculated to give offence.

I never was more surprised than by the answer of Count Forni, who assured me that the Sardinian Government themselves owned they had previous knowledge of the intended attempt, and took credit to themselves for having, in consequence, taken certain measures; but he put it to me whether it was not rather extraordinary that it should never have occurred to them that the most natural measure under such circumstances would have been to have given some notice to the party which they knew was about to be attacked. Count Forni added that the communications with the Sardinian Government had nevertheless not partaken in any respect of the character given to them.

I then heard from Count Forni that His Royal Highness the Duke of Modena had, on purpose to have an opportunity to see me, postponed his journey into Bavaria to join the Duchess, and would receive me next morning.

I must have mentioned to your Lordship, on the occasion of my last visit to Modena, that there is something very prepossessing in the simple, earnest manner of the Duke. I hardly ever met, in any rank of life, with any one who more surely conveyed the impression of a thoroughly honest man, who meant to do his duty; and although he has been found stern upon occasion, his love of justice has become proverbial amongst his subjects.

His Royal Highness, after expressing his satisfaction at this unexpected opportunity of having some conversation with me, as he had only just returned from a country place on the other side of the Apennines, and was about to start for Germany, added that this destination would show that he did not consider his dominions so dangerously threatened as the newspapers might lead one to suppose. Indeed, he said it could not but be satisfactory that the late attempt should have served to show him that even in that which he had always considered the only disaffected corner of his States, the district of Carrara, there should not have been found a single traitor ready for action.

His Royal Highness spoke of the conduct of the Piedmontese Government without any bitterness, but certainly with some surprise. He said that, for

himself, he had never found it a bad system to apply to conduct in public affairs the same principles as should guide one's conduct between man and man. If he saw a house about to take fire, still more if he knew the persons about to break into it, he should hardly think he had done his duty unless he had told the party interested, and enabled him to take his own means of defence.

He said that though he differed in opinion from Count Cavour, he had great respect for his talents. He never could suppose that he had any sympathy for such an insane attempt, but that his conduct was to him quite inexplicable. He (the Duke) had himself been the first to show his confidence in his army and his people by declaring his wish for the withdrawal of all foreign troops; that it was not only a measure of economy, but of honour, a much higher motive for a sovereign, as soon as possible to show his independence; that, small as his army was, he relied thoroughly upon its being sufficient for all internal purposes; that amongst his own subjects he would always depend upon the good for the suppression of the bad; but if hostile demonstrations were to be made upon the frontier, extensive for the size of his States—if apparent encouragements to such attempts were given by foreign governments, Modena had no pretensions to go to war with Sardinia, and he might be obliged to appeal from the annoyances of one powerful neighbour to the good offices of another who might be better disposed.

His Royal Highness seemed to think he had some reason to complain of the liberation without punishment of a man of the name of Ratti, a Sardinian subject, who had been the leader of the movement.

The Duke having alluded with much interest to the zeal and activity of the militia upon the late occasion, I took the liberty of requesting he would give me some information as to the constitution of this force, in the formation of which I knew he had taken considerable pains, and which exists nowhere else to the same extent; and the details, which His Royal Highness gave me with great clearness, will serve as a corroboration of a remark I made in another communication, as to the striking separation between the town and the country population, and as to the certainty with which a government acting prudently and justly, like that of Modena, may depend upon the support of the latter.

The Duke stated that the population of his Duchy might be given as 600,000; that in the organisation of the militia, or more properly rural guard, the inhabitants of any town or burgh of above 500 inhabitants were excluded. This still left about a population of 500,000, or five-sixths of the inhabitants. From these were furnished to the militia one and a half per cent., so that he had 7500 irregular troops of this description, whilst his regular army was only (I think he said) 1500. But as he never made the service irksome, nor allowed it to interfere with the country labours, he had no difficulty in having, without pay, the best men; that those in extreme indigence, or wandering day labourers, were excluded; that the least possible drill was required: they would, of course, do nothing against regular troops, but for brigands and local matters they had hitherto been quite sufficient.

The Duke added that the institution had originated in a spontaneous offer of the rural population after the short Provisional Government of 1831; that it had existed, though not much called into activity, till the general overthrow of all regular government in 1848, WHEN THE FIRST ACT OF THE NEW PROVISIONAL GOVERNMENT HAD BEEN TO DISBAND IT, AND TO REQUIRE THEIR ARMS UNDER PENALTY; that, taking a lesson from his enemies, he had, upon his restoration, devoted much of

his attention to its re-establishment and improvement; and upon the late occasion he had had every reason to be satisfied with the manner in which their zeal and activity repaid his care.

The Duke of Modena has a very large private fortune, with which he deals liberally for public objects, though simple and unostentatious in his private habits. This furnishes one of the most successful instances of personal government that ever came within my knowledge.

The Duke is still quite a young man, but it is a great misfortune to that little State that there should seem to be no further prospect of a direct heir.

I have, &c.,

(Signed)

NORMANBY.



No. 3.

The Marquis of Normanby to the Earl of Clarendon.

(Received December 2.)

FLORENCE, November 25, 1857.

MY LORD,—In a conversation which I had, a few days since, with the Duke of Modena, His Royal Highness again adverted, as he had done last year, to the peculiar difficulties he had in dealing with the most troublesome portion of his subjects—the inhabitants of Carrara and its immediate neighbourhood—from the facilities given for a safe refuge within the Sardinian frontier, and the impediments that Government placed in the way of any claim for extradition on his part.

His Royal Highness stated that there existed between the two States a treaty of extradition, in which political offenders were included, with a clause enabling either party to denounce the treaty if it were not faithfully executed.

The Duke went on to state that, some years since, he had claimed the extradition of some political disturbers of the public peace; that, the Sardinian Government having declined to comply with his demand, he had told them that, in that case, he preferred to exercise his power of putting an end to the treaty altogether; and thus matters remained for some time, until the first visit of the Marquis Sauli as Minister, who proposed to His Royal Highness that the treaty should be again in force, without the provision including political offences; that, His Royal Highness having declined this proposal, the Sardinian Minister had said—Then let the old treaty, *tale quale*, be revived; which was done: that this autumn there had been some assassinations, from political motives, in the neighbourhood of Carrara: that the known murderer in one case had escaped over the frontier, and that he (the Duke) had asked for his surrender six weeks since, and no answer had yet been received.

The Duke added, that probably I might not go so far with him, but that his

own idea was that, when the public peace was disturbed for political motives, and by such means as had latterly been adopted, there could not be more proper objects for extradition on the part of a friendly and neighbouring sovereign ; but that at any rate he conceived there was one point upon which we must all agree — *that assassination was still assassination, though committed for political objects.*

I have, &c.,

(Signed)

NORMANBY.

No. 4.

The Marquis of Normanby to the Earl of Clarendon.

(Received December 2.)

FLORENCE, November 25, 1857.

MY LORD,—All those who take the most rational view of the prospects of moderate and peaceful amelioration in Italy, look much to the development of its municipal institutions ; but even here there are many practical difficulties to encounter.

I had much conversation with the Duke of Modena on this subject, who told me he wished well to the success of such attempts ; that they were established, as far as he could, in his own dominions ; but there were two great obstructions constantly found which impeded their successful working. These seemed to him the more hopeless, as they proceeded from two defects of the national character, the proverbial indolence and the want of moral courage on the part of the Italians. The attendance in these councils was compulsory, and enforced by a fine ; and he had constant petitions for the remission of these fines from many of those whose active exertions he should have wished to have secured, many of whom did all in their power to avoid being re-elected. Then another set of men constantly came to him when any local expenditure, recommended by the Government, had been refused in a spirit of opposition, and said to His Royal Highness, "What impracticable fellows those colleagues of mine are, that they should refuse that which they must have known would be so useful !" But the Duke added, that when upon this he naturally asked, "And you, what did you do on such an occasion ?" "Oh, I voted with the others ; it would have been quite useless to have opposed them."

One cannot but own that such conduct does not look well for present success, but we must hope for the beneficial effect of time when it has brought with it more practice in these matters.

I have, &c.,

(Signed)

NORMANBY.

No. 5.

The Marquis of Normanby to the Earl of Malmesbury.

(Received March 31.)

FLORENCE, March 26, 1858.

MY LORD,—The Duchy of Massa-Carrara has for some years past enjoyed an unenviable notoriety as being the district in the North of Italy where have occurred the greatest number of assassinations, of which the perpetrators have in most cases escaped detection.

Some of them have been attributed, in the absence of proof, to private revenge, but the greater number have been readily traced to political causes, from the connection of the victims with the party opposed to revolutionary movements, and the absence of any apparent personal motive for the crime. The migratory population connected with the marble quarries has always had a bad reputation for lawless deeds, and the Government of the Duke of Modena attributes the successful evasion of the guilty parties to the facilities given for crossing the neighbouring Sardinian frontier; but there is no doubt that this frequent impunity comes also from extensive organisation for the purposes of evil amongst a considerable portion of the population itself.

I received yesterday a private letter from Mr. Walton, Her Majesty's Consul at Carrara, in which he states that a conspiracy had been discovered, having for its object the assassination of Major Gentili, the auditor of the Military Commission, and also of a captain and lieutenant of dragoons, as they returned from church on Sunday last.

This iniquitous design was prevented by frequent and numerous patrols in every part of the town; but many arrests have already taken place, and the greatest uneasiness prevails amongst all classes of inhabitants.

The Duke of Modena's dominions on the other side of the Apennines, including Modena, Reggio, and Guastalla, are always supposed to contain the best-affected population in that part of Italy, conscious as they are that they live under a Government which, however arbitrary in its nature, is equitably administered towards all.

I have, &c.,

(Signed) NORMANBY.

No. 6.

Count Cavour to the Marquis d'Azeglio.

(Communicated to the Earl of Malmesbury by the Marquis d'Azeglio, April 20.)

(TRANSLATION.)

TURIN, April, 1858.

M. LE MARQUIS,—The Sardinian Government think it their duty to call the attention of the British Government to the present state of the Duchies of

Massa and Carrara, which belong to the Duchy of Modena, and border upon the Sardinian territory.

The situation of these two States is becoming so grave, the conduct of the public authorities is such that there is room for apprehending at any moment the outburst of fresh disturbances, and that new victims of the poignard or the scaffold may again plunge in blood these unfortunate countries. The facts which we have to relate are so monstrous that their truthfulness may at first be doubted; we ourselves have abstained for a long time from giving them credit: it is only after the most scrupulous investigations—it is only after sure and certain information that we have become convinced of the exact truth of these facts.

It is now nearly six months since Massa and Carrara have been in a state of siege, and it is the third time since 1849 that this exceptional measure has been applied to this country by the Modenese Government.

The command of the troops has been intrusted to Chevalier Wiederkern, an Austrian captain in the Modenese service, holding the rank of major; another Austrian officer, the Major Gentili, has been named Auditor for War.

A proclamation by the authorities has announced that a Council of War has been charged to revise all the proceedings at law which have taken place since the last state of siege. Thenceforward the laws, the codes, the formalities which protect the course of justice, have ceased.

The pleasure of M. Wiederkern and of M. Gentili has regulated the administration of justice; the property, the liberty, and the life of the inhabitants of Massa and Carrara are placed at the mercy of these two Austrian officers.

Their first attack fell upon the former ordinary judges; M. Frignani was removed from his duties under the double accusation of having married the daughter of an honest citizen suspected of liberalism, and of having pronounced a sentence of absolution in favour of an individual charged with retaining forbidden arms. The individual who was thus set free has been brought before the Council of War and condemned to eight years of hard labour. The same fate as that of M. Frignani was reserved for M. Ostireni. In a trial for rape, this judge had conceded, in conformity with the penal code of Modena, freedom of defence to the accused; although he was careful to state that he gave this decision with submission to the approval of the commandant in the state of siege, he was deprived of his office and received at the same time an order to quit Carrara. By the order of the commandant, the inhabitants have been forbidden to leave their houses after nightfall. The penalty of the stick is inflicted on persons who may be in the streets after the hour named; this hard and degrading penalty has been laid on men affected by wine, and on elderly persons.

Blows with a stick are not reserved for the infringement of the curfew alone. A young unemployed labourer at the mines, provoked to the last degree by a quarrelsome sister, gave her a blow. The sister brought her complaint before M. Wiederkern. The miner had enrolled himself in the Anglo-Italian Legion, and had taken part in the Crimean war. The Austrian major condemned the young man to receive thirty-nine blows with a stick; thirty, he said, for the Crimean war, and nine for the sister.

M. Wiederkern has monopolised all municipal functions; he exercises dictatorial authority over the administration of civil and criminal justice, and

over the police; but he does not stop there. Some young men maintain guilty connections in the town. The Austrian major summons them, and orders them to marry their concubines; in case of refusal he threatens them with prison and the bastinado. Some amongst them have yielded to the threat; others have escaped the consequences of a refusal by flight and voluntary exile. The Bishop of Massa, Monsignor Bernardi, has protested against such violence, which affects the freedom of consent requisite for the administration of the sacrament of marriage.

To this gloomy picture we must add a still sadder feature. The severities, the accusations, the terror designedly scattered, turn into sources of gain. The rich, the folks at ease, accused of imaginary wrong, pay forfeit to shelter themselves from the brutality of the authorities. Sometimes the inferior agents positively lay traps for the inhabitants. One evening two soldiers knock at the door of a dealer in wine, after the lawful hour, and ask for drink. The landlord brings to their notice that he cannot serve them without violating the law; they threaten; the landlord, intimidated, allows them to enter; scarcely are they seated when the guard appears. The dealer has to pay 230 francs fine.

The proceedings of the Council of War are drawn up and decided with the utmost secrecy; every kind of publicity is taken away; the accused have neither advice nor defence. M. Gentili, Auditor for War, prepares the sentences: the members of the council sign them for form's sake.

The state of the prisons is deplorable; the prisoners suffer from hunger. The avowal of crimes, true or false, is extorted from them by means of torture and the stick; the bastinado is given towards the hour of midnight; frightful cries issue from the prisons, and spread dismay in the surrounding houses.

Truly there is ground for doubting that excesses such as these occur in Europe, and in the midst of the nineteenth century.

The inhabitants of the Duchies of Massa and Carrara are bold and enterprising; their passions are quick and violent; their haughty and untameable character does not yield to force; they forget neither the grievances nor the injustice of which they have reason to complain; they are intent on avenging them, and do so by bloodshed. A general fermentation pervades the country; the surface appears calm, but the flame is hidden under the ashes. On the 21st of last March, the troops were to have been surprised in church during mass, and massacred without mercy. Luckily the plot was discovered.

Thus the minds of the people are corrupted; principle, morality, and the sense of right and wrong lose their hold on their consciences, while theories anarchical, and subversive of social order, pervade the masses. Faction gains ground; revolutionary propaganda meets with willing pupils; assassination is openly advocated, and the despair of every one makes the most odious doctrines appear less inexcusable.

The high powers who, at the Congress of Paris, recognised the necessity of important ameliorations in the conduct of several Italian Governments, have a perfect right to take into consideration the state of affairs in Massa and Carrara, which we have just described. It is their duty to devise the remedies so imperatively demanded by such a state of things, if they wish to avert the recurrence of fresh calamities in Italy.

Sardinia is more especially called upon to give it her earnest attention. The contiguity of their boundaries, as well as the ties of relationship, friendship, and Imperial interest which bind the frontier provinces of Sardinia with the

Duchy of Massa and Carrara, exercise over the people an influence the extent of which it is easy to define. Refugees daily cross our frontier; they are a source of perplexity to the Government, which, on the one hand, cannot, from motives of humanity, deliver them over to the fearful despotism of the Austrian pro-consuls, whilst, on the other, it cannot any longer continue to protect them, especially if their number, as is probable, should increase.

The King's Government has therefore thought it right to make this confidential communication to the Cabinets of Paris and London, wishing to know their opinion on the subject.

I therefore ask you, M. le Marquis, to read and leave a copy of this despatch with his Excellency the Earl of Malmesbury; and I have, &c.,

(Signed) C. CAVOUR.*

* We have given this letter of Count Cavour with the others, because we have no desire to suppress any of the allegations against the Ducal government; but there is not one of these, with the exception that Carrara was under a mitigated state of siege, which may not be shown to be false, though it would take another pamphlet to enter fully into all the details. Let us cursorily mention some of them, with the proofs that they are thus utterly untrue. For example, Count Cavour asserts that certain proclamations, &c., proceeded from certain *Austrian* officers whom he names. Of these gentlemen (they amount to two), M. Wiederkern, if an Austrian by birth, had been for a considerable time in the service of the Duke of Modena, and was then Commandant of the Gendarmes. The other was the Judge Advocate Gentili, who is still in the Duke's service, and they were no more Austrian officers, in the sense implied, than Count Cavour himself.

As regards the dismissal of Frignani, the circumstances are equally distorted. Frignani was enamoured of a lady of the family Del Nero, and was called upon in the course of his duty to try a *protégé* of this family. His integrity was thereby subjected to a test which was too strong for it, and he so conducted the trial of the accused that he justly rendered himself the subject of general censure and ridicule. When this scandal reached the ears of the Duke, and through his Minister of Justice, he required an

explanation, the report of that functionary revealed a series of judicial distortions and faults in point of law which in his opinion required further investigation. Accordingly, when the minister was authorised to call upon the judge to explain, he had no justification to allege in his behalf, for he admitted all the judicial faults with which he was charged, and owned that he was so enamoured of the lady in question, that it had been the cause of these mental distractions. He was consequently dismissed, but found a consolation for the ignominy of his position in marrying the lady who was the alleged cause of his judicial delinquency; and, we may add, that if a judge in this country had similarly misconducted himself, his dismissal would inevitably have been called for by the House of Commons.

Thirdly, as regards the asserted whipping, though the prison law of Modena, like that of England, allows it for breaches of prison discipline, it was not so applied in the cases alleged, or in any others in Carrara. A few days before the date of Count Cavour's note, his paid emissaries spread a report that it had been applied in the case of a certain Giromella, and that he was, consequently, lying at the point of death. Upon this his distracted mother presented herself to the commandant, the alleged Austrian officer M. Wiederkern, and he instantaneously directed that she should be taken to see her son in his prison in order that she might learn the truth

No. 7.

The Earl of Malmesbury to the Marquis of Normanby.

FOREIGN OFFICE, April 20, 1858.

MY LORD,—I transmit to your Lordship a copy of a despatch from Count Cavour, which has been communicated to me by the Sardinian Minister at this Court*, calling the attention of Her Majesty's Government to the oppressions under which the inhabitants of the Duchies of Massa and Carrara are labouring; and I have to instruct your Lordship to inquire and to report to me as to the truth of these charges.

I am, &c.,

(Signed) MALMESBURY.

No. 8.

The Marquis of Normanby to the Earl of Malmesbury.

(Received May 4.)

FLORENCE, April 29, 1858.

MY LORD,—I have this morning received by messenger Vyner, your Lordship's despatch of the 20th of April, enclosing the copy of a despatch addressed by Count Cavour to the Marquis d'Azeglio, on the subject of the present state of the Duchy of Massa-Carrara.

from him. On her reaching the prison the alleged *moribondo* welcomed her in a state of health the reverse of disquieting, and as soon as he learnt the occasion of her coming, burst into laughter and made a jest of the deception which had been practised upon her credulity; for, as he himself told her, the whole story of the whipping was a fabrication. The "thirty-nine blows given with a stick, thirty for the Crimean war and nine for the sister," were of the same nature and weight as those experienced by Giromella. All the other assertions of Count Cavour of a similar tenor may be classed in the same category as the fabrication of his agents, who first spread in Carrara these *canards* of their own invention and then reported them to their master as actual occurrences in the district.

Not only was all the context of prison horrors, of tortures, and of midnight cries a tissue of utterly baseless calumnies, but the inventors writing for a distant employer and a distant public did not take the precaution of rendering their inventions compatible with the circumstances of the localities. Thus the prison of Carrara, whence these cries were said to have been heard, was so situated, that is to say, it was so remotely isolated within a *cloture* of its own, that no cries could have been heard if they had been actually uttered. The fact is, the whole of these statements were a part of a system of falsehoods, the object of which is indicated in the despatch which repeats them, and which is an illustration of M. Cavour's avowal quoted as a motto to this pamphlet.

* No. 6.

As I understand it is your Lordship's desire that the messenger should return immediately to Turin, it is of course impossible for me, on this occasion, to examine, after inquiry, into the accuracy of the assertions which have been made to Count Cavour, and to all of which His Excellency appears to give implicit credence. *I will therefore merely remark that the frontier population of the town of Carrara and its immediate neighbourhood is said by those who know it best to be the worst disposed and the most reckless of human life of any Italian district ; that the number of assassinations for political causes has latterly been much upon the increase ; and that Mr. Walton, Her Majesty's Consul at Carrara, in all his private letters has appeared to dwell more upon the general insecurity of the loyal and quiet portion of the inhabitants than upon any capricious tyranny of the local authorities, such as have been reported to Count Cavour.*

The Duke of Modena, in the last interview I had with His Royal Highness some months ago, complained much of the impunity with which assassinations were organised, *whilst the guilty found a ready asylum across the Sardinian frontier.* This he stated to be *in disregard of an existing treaty of extradition ;* and the Duke pointed to the general condition of his States elsewhere, as proving that, *except in that particular spot, he ruled over a contented people.*

Of course your Lordship will not expect that I should presume off-hand to pronounce an opinion, between these conflicting statements, as to the causes of the present disturbed state of the district in question.

The Duchy of Massa-Carrara is separated from the Central Government of Modena by a wild mountain-pass of the highest Apennines. I am dependent for any information from thence upon Her Majesty's Consul, Mr. Walton, a gentleman long engaged in extensive commercial speculations in that district, and only recently appointed to the honorary post of Consul. The season has just arrived when I am in the habit of making my periodical visit to the Court of Modena, and in that case I should have been enabled to put your Lordship in possession of all that could be stated by the Duke or his Government in relation to these questions ; but I would venture to suggest that your Lordship should direct my successor, whose arrival I am daily expecting, to inquire fully into the alleged facts, and to make a report to your Lordship before any steps shall be taken in consequence of the appeal of Count Cavour. I will, in the mean time, write to Mr. Walton, and endeavour to procure a detailed account of the number of assassinations which have lately taken place in the neighbourhood of Carrara.

I have, &c.,

(Signed) NORMANBY.

No. 9.

The Marquis of Normanby to the Earl of Malmesbury.

(Received May 7.)

FLORENCE, May 2, 1858.

MY LORD,—I have the honour to enclose the "Messaggiere di Modena" of the 28th ultimo, with a translation. It is the official "Gazette" of that State, and contains an authoritative denial of the truth of certain assertions with respect

to abuses in the administration of the state of siege in the Duchy of Massa-Carrara. These assertions the Modenese "Gazette" states to have been the invention of some Piedmontese newspapers, but they appear to have been adopted by Count Cavour in his note to Marquis d'Azeglio, forwarded to me by your Lordship.

In further reference to my despatch of the 29th ultimo, upon the subject of the state of siege existing in the Duchy of Massa-Carrara, I would now add that I received at the same time a communication from the Under-Secretary, Mr. Hammond, in your Lordship's name, stating that it was desired the messenger should return immediately to Turin. I, therefore, had not occasion to direct your Lordship's attention to the many previous despatches I had written to the Earl of Clarendon on points connected with this affair. But having since had an opportunity of examining the most important of my previous communications on this subject, I should be doing great injustice to the Duke of Modena, if I did not request your Lordship's special attention to my despatches of August 23, 1856, and November 25, 1857, giving an account of different conversations I had with His Royal Highness.

I shall not further trouble your Lordship with any opinion of my own on the many very important questions raised by Count Cavour's note. It seems to me better, in the actual circumstances of my position here, that my successor should, under instructions from your Lordship, give to these questions his early attention, uninfluenced by any observations of mine, which now must necessarily be incomplete; but I am convinced your Lordship will feel that such matters can only be treated in the same spirit as in those previous communications with the Duke of Modena, to which I have referred. However ready the Duke of Modena may be to listen to friendly counsel, as to the evil effect of any abuse in the exercise of the power conferred by a state of siege, supposing such abuses to exist, yet we can never forget that His Royal Highness is an independent sovereign, and as such owes no account whatever either to the Government of Sardinia or of England, and as little certainly to the Government of France with reference to the exceptional measures of a repressive character he may consider necessary for the public security against an organised system of political assassination.

I have, &c.,

(Signed) NORMANBY.

P.S.—It seems probable that it escaped the notice of Count Cavour, in making the communication he announces to Paris, that the State of Modena has never had any diplomatic relations with the different Governments in France since the year 1830. This would of course make diplomatic representations on such a subject difficult.

N.

Enclosure in No. 9.

Extract from the "Messaggiere di Modena" of April 28, 1858.

(TRANSLATION.)

In some Italian as well as foreign journals, a pretended correspondence from Modena has been quoted, in which it is stated that a village, called at one time

Lutona, and at another Lantona, had been placed in a state of siege, in consequence of a denunciation made by the parish priest to the Government, to the effect that the population was disaffected towards it, and that, after thirty individuals had been arrested in this village, the police offered a reward of 1500 francs to any one who would denounce the persons who had been distributing the "Piccolo Corriere d'Italia" in that locality.

To this spurious correspondence we beg to make the following rectifications:—

There is no such place in the Modenese States (Proper) as Lutona or Lantona; but in the district of Massa there exists a village called Antona, at which it is true that some few individuals were arrested in the month of March last. Since the period when the town of Carrara was replaced in a state of siege in October of last year, with a view to the protection of the lives of its peaceable inhabitants, no other city or village in these dominions, not excepting the fabulous place Lutona, has been subjected to this exceptional state of things; nor has any serious disturbance taken place anywhere else: consequently the statements relative to the state of siege at Antona and the reward of 1500 francs are totally false.

An account which has been given in several papers of the discovery at Carrara of a considerable quantity of arms, is equally undeserving of belief. The real fact is, that two or three weapons were found by the police in a certain rock in which they had been hidden by some malefactors after the commission of one of those acts of assassination which were of but too frequent occurrence in the Carrara district previous to the declaration of this state of siege; and the discovery in question was made in consequence of the revelations of a man confined in prison, who pointed out the arms when conducted by the police to a spot which he had previously indicated.

The same importance is likewise to be attached to the barefaced inventions by which the Piedmontese journals, which are either republican or systematically opposed to every description of constituted government, try to disfigure the object in view, as well as the means by which tranquillity has been restored to the town of Carrara. These papers relate horrors and barbarisms utterly incredible in themselves; but the writers are aware that whilst, on the one hand, by repeating over and over again these barefaced lies, they succeed at least in inspiring doubts, on the other hand such doubts are not always effectually dissipated, it being in the nature of conservative Governments to preserve silence, rather than to enter into an indecorous discussion with such enemies as those in question.

From the foregoing, or rather from the long series of lies above alluded to, it is easy to understand how in foreign countries Italy is made to appear to the uninformed a political volcano in a state of perpetual eruption, merely upon the strength of a few arrests taking place, or a few prohibited weapons or pamphlets being discovered: for, at once, assassins are represented as patriots; a few individuals are designated as the masses of the people; magazines of arms are represented as existing, where, in fact, there were only the weapons hidden by murderers; and correspondences, popular aspirations and lamentations are fabricated by these journalists, and made to apply to any locality which it may suit their purposes to represent as being in a disturbed state.

Without having the pretension to be considered as enjoying a greater degree of tranquillity than the other populations of Europe, we believe ourselves to be as well off in this respect as they are; and it is not right that we should be

judged of by the interested exaggerations of those who, placing their hopes upon revolution, look with hatred on the prosperity and concord of those who govern and those who are governed.

No. 10.

The Marquis of Normanby to the Earl of Malmesbury.

(Received July 12.)

FLORENCE, July 7, 1858.

MY LORD,—I have received a private letter from Count Forni, Minister for Foreign Affairs of Modena, in which His Excellency states the favourable prospect for the future of the Duchy of Massa-Carrara, which he conceives to have been derived from the discoveries made during the late criminal proceedings before the military tribunal. The well-disposed have been shown the extent to which the organisation of secret political societies within the district had left the lives of all exposed to the danger of assassination, whilst the disclosures made to the Government have caused the conspirators to feel that this is no longer a moment when they can execute their evil designs with impunity.

Count Forni adds that he takes the first opportunity of informing me that so soon as the trials of the few other persons still in custody shall be concluded, it is the intention to raise the state of siege in the district; and that he trusts tranquillity may not again be disturbed, provided, as he has reason to hope, the neighbouring Government will co-operate in the maintenance of order.

I have, &c.,

(Signed) NORMANBY.

[The state of siege was raised at the end of the month, although the neighbouring Government did not co-operate for the maintenance of order, as the Minister of Modena had then reason to expect in writing to Lord Normanby. This will appear from the following remarkable despatches of that Minister, which, though published in Italian journals at the time, have probably not before been brought to the attention of the English public.]

His Excellency Count Forni, Modenese Minister for Foreign Affairs, to His Excellency Count Cavour.

(TRANSLATION.)

January 26, 1859.

Relying upon the treaties in force, I repeatedly asked your Excellency for the extradition of five Estensian subjects guilty of those treacherous murders which caused the determination to place the commune of Carrara under a state

of siege, that might serve for the better protection of the lives of the peaceful citizens there.

Your Excellency, in reply to the third official despatch that I addressed to you upon that subject, after having observed that *to assassins the modern law of nations does not intend (non intende) to grant hospitality*, added that the individuals claimed should be conducted to the frontier as soon as I intimated that they *should be judged by the ordinary tribunals*. You then supported this unexpected condition principally on the ground that, the treaty on the subject between Modena and Sardinia of 1817 *not designating the cases for extradition according to the nature of the offence, but according to the measure of penalty with which the particular offence may be punished*, it resulted as a consequence that the judgment should be that of the ordinary tribunals and of the common law, not of special commissions instituted for *extraordinary cases, which sentence with rites and specialities that are equally extraordinary*.

Disagreeable as it was to me to perceive that the right to interpret an international pact, arrogated to itself by one of the two contracting parties, would have the result of withdrawing as privileged from the exceptional tribunal those very assassins on account of whose atrocious wickedness that tribunal itself had to be instituted; and although I did not omit to draw your attention to the fact that the military commission, according to the instructions that it has received, did not apply extraordinary, but only the ordinary penalties in force at the period when the crime was committed; nevertheless, I met your despatch by declaring that I suspended the claim for the extradition, to renew it when, upon the abolition of the state of siege of Carrara, things should have been brought back to those ordinary conditions to which precisely the despatch of your Excellency referred.

I received for reply that the arrangement proposed by me could not be otherwise than acceptable to the Department of Grace and Justice, which had been consulted expressly on the subject, and that therefore the prolonged detention in prison of the five Carrarese should continue at the cost of our Government, in virtue of the provisions of the 8th Article of the Convention of the 3rd February, 1817.

After such preliminaries (*antecedenti*), it was a necessary conclusion that, even had there not existed between the two States that convention, to which frequent reference has been made, for reciprocally handing over malefactors, the correspondence above cited constituted of itself quite a special understanding for the case of the five assassins in question, who, as they were to be kept in custody at the cost of Modena, should likewise, if only on that account, be considered as prisoners of Modenese justice and at the disposal thereof.

Tranquillity having been subsequently restored in Carrara, the state of siege raised, and all the requisite steps taken that to the ordinary tribunals should belong the judging not merely of these five that had taken refuge abroad, who were to be delivered up, but even also of the other person accused as their partner in guilt, and who had already fallen into the hands of our authorities, I, on the 27th of September last, communicated as much to your Excellency, and, in consequence of what had been agreed upon, renewed the demand of extradition; and as it was not possible that I could anticipate any delay, I begged to be informed of the day on which the extradition would take place, in order to have time to make the previous arrangements requisite.

Neither to this, nor to a subsequent letter to the same effect, did I receive

any reply whatsoever; at last, addressing another also to your Excellency, I obtain, under date of the 15th of December last past, to my surprise, an answer in which you signify to me that a petition had been addressed to you in favour of the five noted Carrarese, in consequence of which, as doubt remained on your mind *whether the case of extradition can take place according to the meaning of the treaties in force*, it had been your duty to remit the examination of the question to the Keeper of the Seals of His Majesty, by whose opinion you claimed to be guided in returning to the subject with me in due time.

An incident so impossible to foresee must finally constrain me to judge that the relations intervening between the two States for the safeguard of criminal justice, were no longer reciprocal. In fact, if, even for the perpetrators (*autori*) of treacherous assassinations, your Royal Government would fain (*voleva*) render the execution of what has been already expressly promised dependent upon the examination of the intentions that were the motive of the crime,—if the parties interested in any way in the same were to be heard before carrying out what was agreed upon,—and if it were enough for them to allege the pretext of politics in order that assassination, losing all its qualities of a common crime, should be transformed into a deed deserving of exceptional protection,—your Excellency plainly sees that the Modenese Government would no longer have a fixed foundation to determine practically what may be its treaties with Sardinia in the matter of extradition, and might upon every occurrence find a less ready hearing than its own criminal subjects.

Therefore, before reporting upon this disagreeable contingency to H.R.H. the Duke, my master, I esteemed it, on the one hand, my duty to insist anew with your Excellency, in order that every obstacle to the consignment so long delayed might be speedily removed; and, on the other hand, I believed it my especial office to remit anew to the wisdom of your Royal Government the more satisfactory solution of an affair (*vertenza*) that has been already too long pending.

Nevertheless, this act of deferential regard must have a term, after the lapse of which I myself must feel convinced that the silence of H.M.'s Government is sufficiently eloquent in this particular, and that self-respect will no longer allow the Modenese Government either to insist upon a demand which, having been repeated seven times, admitted, and then taken exception to, has been the means of suspending for more than fifteen months the course of criminal justice; nor to expose itself to see renewed, at the arbitrament of the other contracting party, a situation that places it in conditions too disparaging and uncertain.

Having taken, then, the orders of my august Sovereign on this subject, and seeing how the execution both of the general agreement and the special understanding in this affair of extradition may eventually depend upon the examination that may be instituted on your side on the appeal of the parties interested in the crime, I am authorised to declare to your Excellency that if, in the course of an early post, you should not be pleased to repeat to me the notification that the murderers in question are about to be consigned to our authorities, the Modenese Government will be constrained to hold either the silence or the refusal of the Government of H.M. on that matter to be a repudiation on your part of the Convention of the 3rd of February, 1817, and, in consequence, to leave, to whom it may of right belong, the responsibility of a state of things

that in sooth is very ill conformable to the true interests of States and to the civilisation of these times.

Wishing, then, most sincerely that this despatch of mine may meet with a favourable reception,

I have the honour to be, &c.,

(Signed) G. FORNI.

His Excellency Count Forni, Modenese Minister for Foreign Affairs, to His Excellency Count Cavour.

(TRANSLATION.)

February 11, 1859.

By my note of the 26th January last past, I saw myself under the necessity of signifying to your Excellency that unless, in the course of an early post, you should have repeated to me the notification that the noted five assassins, kept in custody on your side, at the charge of Modenese criminal justice, were about to be consigned to our authorities, the Estensian Government would have to hold any ulterior silence to be a denunciation *de facto* of the Conventions in force for the reciprocal consignment of malefactors.

The case having too truly turned out as above foreseen,—that is, having this time also received no answer whatever from your Excellency,—I am under the necessity of declaring that the Government of H.R.H. the Duke, my master, feels constrained to accept the position created for it by the Government of H.M. the King of Sardinia, your sovereign, and therefore to regard as explicitly repudiated (*disdetta*) the Convention concluded in Turin, the 3rd February, 1817, for the arrest and reciprocal consignment of culprits and evil-doers.

I have the honour, &c.,

(Signed) G. FORNI.

APPENDIX C.

THE TEXT OF THE DUKE'S DECREE OF
22ND DECEMBER, 1857.

With an Explanation of its Mitigating Scope and Effects by Judge-Advocate Gentili.

- "We having resolved to bring into consonance the various rules respecting the laws, procedures, and system of proofs in the territory of Carrara, where the state of siege is now in force, and having read the inquiries (*quesiti*) as well as the proposals submitted to us by the Major Judge Auditor in the said territory, think proper (*troviamo*) to decree as follows:
- "1°. On the ground that the law protects military persons no less than those that belong to the class of civilians, the Military Commission in the territory of Carrara shall continue to adopt *as to the procedure*, and as to the proofs as well generic as specific, the provisions of our Military Code issued in the year 1832.
- "2°. The above has reference to all the procedures in which the said Commission is engaged, or will be engaged, touching the classes of crime contemplated in No. 3 of the Notification of the 6th October, 1857, issued by our order, whether the crimes took place before or after the publication of the same.
- "3°. The said Commission shall be entitled to judge the respective accused (*inquisiti*) always and exclusively according to the rules of *procedure* of the aforesaid Military Code, to wit, either by council of war or by (*Giudicato*)."

In these three paragraphs the forms of procedure are regulated, and this without detriment to the accused (*inquisiti*), irrespective of which it was natural that a Military Commission should proceed according to the ordinary rules of military procedure. Nor is there any retroactivity in prescribing new rules of procedure, for the procedure always takes place subsequent to the law that establishes it, and without any injustice or injury to the delinquents, inasmuch as the procedure involves only the *forms* of the trial, whether, for example, the examinations are to be made in presence of eight persons (military) assisting, or of a judge and chancellor (civil), &c. &c.

The introduction of a new procedure is a thing in itself indifferent as regards

the substantial merits of the case, it being understood that the procedure is consistent with justice.* In fact, the substitution of one method of procedure for another is practised everywhere without objection. For example, if in Modena at present a crime should be discovered which was committed in 1856, the present Government would certainly not proceed according to the forms of the Modenese law, but with the forms prescribed by the Piedmontese Code; but as to the classification of the crime and the application of the penalty, the Criminal Code of Modena would be adhered to, as being the code that was in force when the crime was committed: otherwise an injustice would be inflicted on the criminal in every instance in which the penalties of the new code were severer than those of the old.

The Decree of the Duke continues—

- “4°. In the present state of affairs in Carrara, we do not find it necessary to apply this code to the extent of *procedura stataria*. But if hereafter by new directions of ours it should be so applied, there shall then be observed the appropriate forms of procedure and judgment; but as to the execution of capital punishment, there shall always be given twenty-four hours to the criminal after the publication of the sentence to prepare for death.”

Now §§ 834 and the following of the Penal Military Code treat of *giudizio statario*, which is the extraordinary procedure necessary in extreme cases, for prompt and efficacious example, and which requires that the whole procedure and the execution of the capital sentence shall be terminated within twenty-four hours. The *statario* never obtains except after previous proclamation, and then only for the crimes which are named in such proclamation, and the great frequency or audacity of which necessitates such an extreme measure. Yet in such case also the appointed rules must be observed as regards the proofs, the age of the accused, and everything else prescribed in the *ordinary* procedure, so that it is only a more speedy decision which is obtained, while the formalities which protect the accused are still rigidly observed.

The state of siege is almost always accompanied by this procedure, as being in itself a measure which is introduced in extreme cases; but His Royal Highness having adopted the rules of procedure of the Military Code, though, according to the notification of the 6th of October, 1857, the procedure of the *stataria* might have been used, nevertheless here expressly forbade its adoption in order to remove the suspicions or doubts which such sentences excite. Moreover, the arrest of the chiefs of the assassins having taken place with so much

* “The writ of attainder against Fenwick was not, as the vulgar imagined, and still imagine, objectionable because it was retrospective. It is always to be remembered that retrospective legislation is bad in principle only when it affects the substantive law. Statutes creating new crimes or increasing the punishment of old

crimes, ought in no case to be retrospective. But statutes which merely alter the procedure, if they are in themselves good statutes, ought to be retrospective.”—*Lord Macaulay*, vol. v. pp. 42, &c., where the reader will find the context rendered explicit upon this point by the aid of some of Lord Macaulay's admirable illustrations.

celerity, and their punishment according to the rules of the ordinary procedure having produced a salutary effect, assassinations were soon at an end in Carrara, so that there was no need to recur to this measure for prompter repression. The Duke reserved to himself, for cases that possibly *might* arise in future, the right to issue new directions on this head, and even for such cases he decided beforehand that the criminals should have a longer time to prepare for death than the law provided.

But these *new directions here contemplated never were carried out*, nor was there any need of them; for the Commission never were called upon to try or pronounce judgment in any case according to the more rigorous form of martial law (*stataria*), but in every case employed the *ordinary* procedure, as is proved by the records of process, and as the whole city of Carrara could bear witness, together with every other city in the Duchy where the notification of the sentences pronounced was placarded according to the usual forms.

The text continues —

“ 5°. As to the application of penalties, aggravating, attenuating, or excusing circumstances, prescriptions, qualification of acts contrary to the laws (except the *procedure* already regulated by § 1), the general rule of jurisprudence shall be adhered to, *never to admit retroactive force, and therefore that law shall be applied to the delinquents which was in force at the time they committed the crime.*

“ 6°. *In case of conflict between two penal dispositions of law, that is to say, if that which should be applicable to the culprit be more severe than the Military Code in force at the time of the condemnation, the general rule of jurisprudence shall be adhered to, to apply the less rigorous in that case.*”

These two paragraphs afford the clearest refutation of Mr. Gladstone's assertion; and these clement directions, be it observed, were given by the Duke not under ordinary circumstances, but for cases deserving of extreme rigour and during a state of siege.

There would have been no injustice in punishing each person according to the law in force when the crime was committed, and those only by the military law who had offended after it was brought into force. But His Royal Highness, clemently considering that the Military Code in certain respects is milder than the Criminal Code for civilians, willed that these milder provisions, and only these milder, should have retroactive force in favour of the accused; and here are the proofs that this was faithfully carried out :—

All persons guilty of deliberate homicide were punishable with death according to the laws that were in force, that is to say, the old statutes of Carrara up to 1st January, 1856, the new Modenese Criminal Code from that date till 6th October, 1857, and the Military Code, which obtained local and temporary force from that day so long as the state of siege lasted.

The two first-mentioned codes, however, *i. e.* the old statutes of Carrara and the new Modenese Criminal Code, required for the application of the penalty that the judges should be convinced of the guilt of the accused by the confession of the accused, by witnesses, or by circumstantial evidence. In all such cases the ordinary penalty was applied; that is to say, in the case of deliberate homicide, meaning murder, the penalty of death. Any person guilty of murder

under those laws, were the guilt proven only by circumstantial evidence, would have been condemned to death justly and legally.

Luckily for the assassins of Carrara, however, the Duke required the Military Penal Code to be retrospective where its provisions are milder; for § 758 of that code prescribes "The penalty of death, or the 5th penal grade (galleys for life), only in case the crime be legally proven, either by the criminal's confession or by sworn evidence, and if at the same time the fact, with all the chief circumstances, be also legally proven. If the fact be not proven in this way, or if the accused shall only have been legally convicted by the depositions of accomplices, or by the chain of circumstances, instead of the penalty of death on the gallows, or the 5th grade of penalty (*i. e.* galleys for life), he may be condemned only to from ten to twenty years of the galleys." There is a difference also as regards the age of the accused.

"While Art. 61 of the new Criminal Code of Modena requires that the criminal be twenty-one to be subject to the penalty of death, it establishes as exceptions the cases already noticed above, among which are all the kinds of murder described, in which it suffices that the criminal at the date of the crime was eighteen years old in order to punish his crime with death. But the Military Code requires that the criminal be twenty years of age at the time of the crime to enable him to be put to death; and the mildness of the sovereign edict is clear when we see that a person whose crime was committed under the Criminal Code of Modena (*viz.* between 1st January, 1856, and October, 1857), and who, when he committed the deed, was above twenty and not twenty-one, was not judged to death according to that provision, because the Military Code, as the more severe, had not retrospective force. On the contrary, in cases where the ordinary law condemned to death at eighteen years of age — and such were all the murders committed in Carrara — then the Military Code had retrospective force as the milder, and the criminal escaped the penalty of death because he was not yet twenty, the age which the Military Code requires whatever be the crime.

The Art. 61 above quoted of the Criminal Code of Modena prescribes moreover that when, on account of defect of age, the penalty of death cannot be inflicted (always supposing the accused to be aged eighteen), such criminal shall be punished with the penalty next less in degree, that is, with the galleys for life. But, again, this penalty could not be applied by the Carrarese Commission, on account of the retrospectiveness given to the milder clauses of the Military Code (§ 759), which direct that a criminal under twenty years cannot be condemned to death nor to the galleys for life, but only to the galleys for from ten to twenty years.

Here are instances of the practical operation of this. Giuseppe Marcucci, aged twenty-two, and Pietro Bordigoni, aged twenty-three, when sentenced (4th February, 1858), were both participatory (*correi*), with malice aforethought, in the murder of Francesco Biselli on the night of 9th March, 1857. Both were twenty-one when the crime was committed, and, being condemned by the depositions of their accomplices and by the concurrent chain of circumstances, would, by the ordinary law in force when the crime was perpetrated, have been legally condemned to death. But by the retrospectiveness given to the milder clause of the Military Code, which does not admit of either death or galleys for life on such proofs, they were condemned to the galleys, Marcucci for twenty, and Bordigoni, being less criminal, for fifteen years. Will examples of greater mildness be found in Piedmont or elsewhere in ordinary times than here ob-

tained in a time of greatest rigour, the state of siege? Both these accused were moreover guilty of participation in a secret revolutionary society, which of itself alone implied the penalty of the galleys for from twenty years to life, according to the Civil Code, and according to the Military Code likewise; and nevertheless there was applied to them, in consequence of the clement directions of the Sovereign, of which I shall speak further on, no further penalty than has been already mentioned.

Such, then, are the cruel retrospective edicts of the Sovereign of Modena, who condemns criminals only to fifteen, and not more than twenty years, who for one crime legally merited death, and for another either death or the galleys for life.

Francesco Capè, confessedly guilty of—1°, an attempted murder; 2°, of a perpetrated murder; 3°, of participation in a secret society of assassins and revolutionists—when, on the 13th of October, 1854, he committed these deeds of blood, was aged twenty years and some months. The laws then in force in Carrara were the ancient statutes of that province, which for such crimes established the penalty of death without fixing any age. It was customary in the ordinary tribunals to reckon full age in criminal as in civil causes at twenty-one years. Capè, who confessed all the three crimes above mentioned, was, in virtue of the retrospectiveness of the milder provision of the Military Code, condemned to only twenty years' galleys, while the ordinary law to which he was subject at the time of the crime would have inflicted upon him the galleys for life.

Giovanni Orsini, an accomplice of the above Capè, was over twenty-three years of age at the time of the crime, and was not condemned to death, nor to the galleys for life, as the law that was then in force would have warranted. But inasmuch as he confessed participation in the aforesaid secret society, while he was convicted of the attempt at murder and the perpetrated murder only by circumstantial evidence, his sentence was only twenty years' galleys.

Francesco Santucci was aged nineteen when he committed his crime, and twenty-three when condemned. He belonged to the society of assassins and revolutionists, and had, on the evening of the 11th of June, 1854, killed a schoolmaster named Raffaello Bertolini. Belonging to a secret society is a continuous crime, of which Santucci was still guilty at twenty-three, and for which he could justly have been condemned, according to the Estensian Code, to galleys for life; but in consequence of the principle which the sovereign edict in § 9, of which I shall speak further on, established, and though Santucci clearly confessed the murder he had committed, his sentence was galleys for twenty years instead of death or galleys for life.

Luigi Bastrevi, aged eighteen, killed in Carrara in the public square, in the midst of the people, by a pistol shot, one Gioacchino Rocchi, who was sitting quietly before a *café* on the evening of the 15th August, 1854, and he committed this murder as a delegate of the Secret Revolutionary Society, of which he was a member. Bastrevi was a private soldier when these crimes were discovered, and confessed both these offences; yet he was sentenced to only twenty years' galleys, though, to satisfy the laws under which he committed his misdeeds, he should have been condemned to death, or at least galleys for life.

Cases occurred, too, in which the Civil Code was found the more lenient, and then the penalty was measured not by the Military, but by the Civil Code. Here is a case in point:

Ferdinand Rossi was a member of the secret society, and became a participator in the murder of Edward Dazzi. Dazzi was asleep on the evening of the 11th August, 1857, on a roadside at Carrara, when Rossi and another named Agostino Mariotti, who saved himself by flight, took a fancy to dash his head to pieces with a heavy block of marble. Rossi, who himself confessed both crimes, was sentenced to eighteen years' penal servitude (*lavori forzati*), because he was only aged seventeen at the date of the crime, and that by application of the Civil Code (Arts. 36, 54), while in these cases the Military Code would have inflicted galleys for fifteen years, consequently a far heavier penalty, because one year's galleys is equivalent to two years' penal servitude.

Thus is demonstrated how, in virtue of the Duke's ordinances, the law that in each case was most advantageous to the criminal was the law applied. And it is clear that the retrospectiveness was granted only to those laws that were milder, and never to an *ex post facto* law of a more severe character.

Text of Decree continued :—

"7°. Desirous of giving a further guarantee to the criminals that may be condemned to capital punishment, upon the proposal of the Auditor himself the process shall be expedited to us, that we may have it revised as regards both merits and form. This examination must, however, be made with the greatest possible diligence, after which the process shall be sent back to Carrara to the Commission for their judgment upon it; and we decide to leave the right of confirmation or commutation of the sentence to the commandant of the state of siege."

This is a disposition to insure the perfect regularity of the proceedings and the justice of the sentences, whereby His Royal Highness, after hearing the vote and counsel of the Ministry of Grace and Justice, then left it to the commandant of the state of siege, to confirm or modify them in mitigation. Both have happened.

Text of Decree continued :—

"8°. We ordain, that as regards the legal force of proofs, and their influence on the application of the penalty, strict adherence be had in every case to the Military Estensian Code of 1832."

This disposition is only a duplicate of pars. 1, 2, and 3, and is repeated here expressly to insure its accurate application. Its mitigating effect is seen in the above cases, where the Military Code expressly excludes capital punishment and galleys for life when the proofs are derived only from the depositions of accomplices or circumstantial evidence, while, on the contrary, the Civil Code would have warranted on such proof the application of those penalties.

Text of Decree continued :—

"9°. Considering that our Military Code characterises adhesion to the Society of Carbonari, or any similar conspiracy, as high treason—as it is also considered to be by the Proclamation of 6th October, 1857—and that this offence is, therefore, in every case punishable by death and confiscation of goods, we nevertheless, holding that for several reasons, in the actual circumstances, it is not commendable,

because it is not absolutely necessary, to apply capital punishment to all such cases, restrict that provision of the law, and ordain as follows:—

“Against the heads of the conspiracy, proved to be such, the proceedings shall be taken according to the law on high treason; while for other proved members of the conspiracy, provided they have not been imbrued directly or indirectly in crimes of blood-shedding, and excluding aid given after the fact to criminals guilty of actual bloodshed, the punishment shall be galleys for from five to ten years.

“As to the confiscation of goods, we change nothing in the law, and authorise the Auditor in each case to declare that for those who are not chiefs we remit the confiscation of goods.”

This is a fair answer to the accusation that the Duke was disgusted with the application of mitigating circumstances, and framed *ex post facto* laws with severer penalties. Thus the Duke acted at the time of the greatest rigour. Is he likely to have acted in the opposite sense in ordinary times?

Finally, I must observe that His Royal Highness, in a spirit of supreme clemency, ordained that the subordinate members of the conspiracy, of whom great numbers were known, should not be punished at all, and proceedings should only be taken against those who were imbrued in deeds of blood.

Text of Decree continued:—

“10°. The penal sanctions of the Proclamation of the 6th October, 1857, for some crimes more severe than the existing codes, may be applied for corresponding offences that occurred after the publication thereof, saving the mitigations of the present decree.”

There is no retrospectiveness here of a severer law, when, in extreme circumstances, the penalty applicable to certain crimes is increased, in order to prevent their perpetration, and when such crimes are perpetrated after the publication of the new law. There is nothing contrary in this to the general law of justice. Nay, more; His Royal Highness, in ordaining that severer punishments should be applied to crimes committed, not before, but *after* the publication of the law of 6th October, 1857, wills that even in these cases the mitigations of the *present* decree shall be observed and applied.

Text of Decree continued:—

“11°. *In order that, for the future, the criminal may be condemned to the penalty of death, he must have been of the full age of eighteen.*
FOR DELINQUENTS BEFORE THE 6TH OCTOBER, 1857, the previous laws shall be observed, as was already ordered.”

Is it here that there has been discovered retrospectiveness of severer measures? It seems to me that the paragraph speaks too plainly, and needs no comment. I will only say, that, treating of processes against civilians, who, according to Art. 61, § 2, of the ordinary law, are subjected to the ordinary penalties for the crimes named therein, provided they have passed the age of eighteen, I see no reason why the same persons, under the rigour of a state of siege, should be treated more leniently than by the ordinary tribunals in ordinary

times. Therefore it is nothing more than a confirmation of the very law that already existed and was valid for civilians, although the decree adds, "saving the mitigations in these presents contained." I will moreover observe, with respect to the two above sections, §§ 10, 11, that after the publication of the state of siege, that is to say, after the 6th October, 1857, no fresh crime was committed, so that the severer measure of the Proclamation of 6th October, 1857, was never applied, and there was no capital sentence pronounced against individuals under twenty-one.

Text of Decree continued:—

"12°. We approve that for assessors at the examinations there shall be only officers cited."

This excludes common soldiers from assisting at the examinations, as they would in ordinary military procedures. The object was to maintain secrecy, so that criminals and accomplices should not be able to seek safety in flight, from anything transpiring indiscreetly among the associates of the soldiers. But for the judgment common soldiers were always called, as the law prescribes.

Text of Decree continued:—

"13°. Every anterior disposition that may be contrary to the present decree is abolished. The present decree shall be transmitted by the military commander-in-chief to the commandant of the state of siege in Carrara, who shall communicate it to the Judge Advocate (*auditore militare*), Major Gentili, for his rule, and for that of the Military Commission.

(Signed) "FRANCESCO.
(Countersigned) "PARISI, Sec.

"Modena, 22nd December, 1857."

The case which drew attention to some discrepancies in the different provisions of law was the following:—Joseph Giromella, alias Raffin, marble quarrier, aged sixteen, was sentenced on the 12th December, 1857, consequently ten days before the date of the above decree, as confessedly guilty of an attempt at treacherous murder, which he was paid to perpetrate, and which he committed by a gunshot fired on the morning of the 6th July, 1857, whereby he succeeded in lightly wounding Jacopo del Vecchio. He was condemned to the *galley* (*ergastolo*) for fifteen years, but this was, in virtue of the above decree, subsequently commuted to *penal servitude* (*lavori forzati*)—consequently by one-half diminished.

APPENDIX D.

THE SPEECH OF LORD DERBY IN THE HOUSE
OF LORDS, JULY 22, 1861.

The Earl of DERBY,—My lords, I think it is a matter of regret that at this late period of the Session my noble friend should have thought it necessary to call attention to the case of the Duke of Modena; but I by no means desire to cast the slightest imputation or blame on my noble friend for having come forward in the manner he has to satisfy what appeared to him to be the claims of public justice, as well as of private friendship, inasmuch as the Duke of Modena has been in an extraordinary and unusual manner attacked by one of the Cabinet Ministers of this country. (Hear, hear.) It may be but of little importance to us what course the Duke of Modena pursued when he filled the position of a reigning prince, but it is of the greatest importance to the character of this country that a member of the Government should not avail himself of the facilities afforded to him by his official position and his seat in Parliament to throw out against a deposed Sovereign, on no sufficient evidence, a charge which it was impossible that the person accused should have an opportunity of meeting. (Hear, hear.) When the noble lord opposite (Lord Wodehouse) says he thinks it a most extraordinary thing that my noble friend should not have brought forward his defence of the Duke of Modena in the place where the accusation was made, he must know that my noble friend has no opportunity of making that defence in the House of Commons, or no opportunity of bringing the right hon. gentleman the Chancellor of the Exchequer face to face with him in this House. (Cheers.) What the noble marquis has done has not been to bring him face to face; but in the correspondence he has driven the right hon. gentleman from point to point, and obtained from him a reluctant, though in some respects certainly not a gracious, retraction of errors into which he has fallen. (Hear, hear.) I think a generous mind would naturally shrink with repugnance from taking advantage of the opportunity—even if forced upon him—of expressing in the House of Commons exultation and triumph over the fallen and putting forth slanders against the unfortunate (hear, hear); yet, without the slightest necessity, or any provocation to such a course, the right hon. gentleman has in his place in the House of Commons brought against an absent Sovereign charges of the most heinous character, and

accusations which he has subsequently admitted that on investigation he was not able to substantiate. I have seen the letter from the Duke of Modena to my noble friend to which the noble marquis has made reference. I think my noble friend exercised a wise discretion in not reading that letter, which is very long; but if it could be laid before your lordships you would see that there is not a sentence in it that does not denote that it has emanated from a man conscious of the rectitude of his own conduct, and feeling that he has been unjustly accused by the Minister of a friendly Sovereign, availing himself of the opportunity which his position as a Minister and a member of Parliament afforded him of giving utterance to those charges, and stating them in such a manner as would convey the impression that they were founded on official documents to which he, as a member of the Government, had access. (Hear, hear.) And now, as to official documents, the noble lord opposite held in his hand a book which appeared to be very voluminous, and which, perhaps, the Duke of Modena, my noble friend, or none of us in this House has ever seen; but having heard one or two quotations from that book, we are called on to state whether in our opinion those documents are forged or not. (Hear, hear.) Not having seen them, it is impossible for us to say. This my noble friend said, that if some were authentic they had been obtained by the basest means and in the most unworthy manner. He further stated that papers had been left by the Duke of Modena in the confidence that they contained nothing against his character or which a generous enemy could publish to his disadvantage. They were left in the archives of Modena. Whether what we have heard of them have been correctly published we do not know; if they have been they do not bear out the charges which Mr. Gladstone thought fit to bring against the Duke of Modena in the House of Commons. (Hear, hear.) The noble lord opposite enters on the discussion as to whether the Government of the Duke of Modena was an arbitrary one; and he appeals to the noble and learned lord on the woolsack to know what he should think if the Executive of this country were to call on the judges to revise their sentences, with a view to making them more severe. It is not necessary to tell us that the Duke of Modena's was not a constitutional Government; it is not necessary to tell us that he had an arbitrary power. It may be very objectionable that any Sovereign should have it in his discretion to exercise such a power, but that is not the question. (Hear, hear.) The question is whether the Duke of Modena is open to the specific charge of which Mr. Gladstone said he was guilty. He did not volunteer in the House of Commons to show the arbitrary character of the Government, but the arbitrary, cruel, and disgraceful manner in which, according to him, the Duke of Modena had exercised the power placed in his hands, in proof of which he stated that by an *ex post facto* edict he ordered the execution of a young man who did not come within those laws of the country which provided capital punishment. The charge of Mr. Gladstone was, that an edict for the execution of Granai was issued, and it was left to be inferred that the young man was executed. That is now retracted, I admit, but in what manner? Mr. Gladstone says, "I think my words conveyed something more than I was justified in saying, but there was an *ex post facto* edict which rendered the young man liable to be executed." My lords, that is a very different statement; but even that is clearly disproved by the evidence read by my noble friend. No young man under the age of twenty-one has ever been executed in Modena during the Duke's reign. That is an indis-

putable fact which defies all contradiction or question. It is true that after atrocious crimes had been committed a letter was sent from the Duke of Modena to his Minister, directing an alteration to be made in regard to the laws. In that document the Duke does point out the inadequate sentence that had been passed on Granai under the existing law, and directs that the law shall be modified so as to include the case of deliberate murder, even though the criminal is under age. Is the alteration therein suggested a very unjust one? I should like to know whether in this country a man under the age of twenty-one years is not liable to execution for deliberate murder. The law of this country recognises no such distinction as that which would exclude a person because he was under age. The Duke of Modena thinks there ought not to be such a distinction in his country, and he sends a direction to his Minister, who is drawing up a new code of law, and says, "Make under the new law premeditated murder, even when committed by persons under the age of twenty-one, punishable by capital punishment." Why, that is the law here; but any one reading Mr. Gladstone's charge would have said that this young man, Granai, had been executed under an *ex post facto* law. (Hear, hear.) Ever under this direction—for it was not an edict, but a direction to a Minister to prepare an edict making an alteration in the law—there was no such intention as that alleged in the charge. No one pretends to say that the edict was ever carried into effect. In point of fact it never was an edict at all; but in the letter quoted by my noble friend, the Duke of Modena distinctly and emphatically declares that even this direction was not intended to apply to the case of Granai, or to any other that had occurred; and, moreover, he declares, in the language of an honest man, that if he had intended to give a retrospective operation to the proposed law such an intention would have been most reprehensible. (Hear, hear.) As an indication of the animus which dictated this charge, I may observe that Mr. Gladstone stated that the Duke of Modena had directed this edict to be acted on by a commission composed of Austrian officers, and that this commission was directed not to refuse the evidence of soldiers. The not refusing the evidence of soldiers, where the population was in insurrection and the place was in a state of siege, was made one of the gravamina of the charges against the administration of the law under the Duke of Modena. But my noble friend has shown conclusively that whereas the Duke of Modena was charged with causing Granai to be executed, the fact was that he never was executed. He was charged with having passed an *ex post facto* enactment authorising him to be executed—it was shown that no such *ex post facto* legislation was passed; he was charged with having caused him to be tried by a commission of Austrian officers—it was proved that for eighteen months there had not been an Austrian officer in his dominions (hear, hear); he was charged with having enforced an *ex post facto* law, by which persons under twenty-one years of age were executed—it was proved that there were only five persons executed under that law, each of whom had committed offences punishable with death under the civil law of the country, and not a single person under twenty-one years of age was punished with death then or at any other time. (Hear, hear.) These are the charges that were made against an absent and unfortunate Sovereign (cheers); and when these questions come to be discussed in the House of Lords, their lordships feeling the injury which has been done to the character of the country by one of the Ministers of the Crown

availing himself of his position to put forth groundless and unfounded charges, and then refusing to offer a frank and fair refutation and retraction of charges such as I should have thought an honourable man would have been only too eager to make—then, forsooth, we are met with the plea that he is not here to defend himself, and that we are bringing an accusation against him in his absence. (Cheers.) Why, the accusation against the Duke of Modena was not only made in his absence, but was circulated all over Europe in the columns of *The Times*, and went forth as having been made in the freest assembly in the world by a Minister of the Crown, with all the authority of the Government to back it up; and that allegation must have been received as true unless some person, prompted by the honourable motives which have actuated the noble marquis, and possessing his means of information, had come forward to contradict the charge and to scatter to the winds the accusations made by Her Majesty's Chancellor of the Exchequer. (Loud cheers.) My noble friend says, if you wish for information relative to the years in which those transactions are said to have occurred, you have the means of furnishing the House with them, and those very documents, though they are not brought forward, have been quoted from this evening. [Earl Granville made a gesture, apparently of dissent.] Why, I see them now in the noble lord's hand. (Cheers.) We have never seen them, and we cannot act upon them. I always thought the rule was that the Minister, if he did not feel himself at liberty to lay papers upon the table of the House, should abstain from quoting from them. (Hear, hear.) My noble friend says, if you wish to have authentic information as to the proceedings in Modena, as to the conduct of the Government and the relations between the Government and the people, the estimation in which the Duke was held, and as to the general condition of the country, you will lay on the table those reports which you received from your agents during the last three years; and we shall then be able to see whether there is in them anything which justifies the charges of misconduct and criminality brought by the Chancellor of the Exchequer against the Duke of Modena. (Cheers.) I think it is a matter of perfect indifference to my noble friend whether these documents are produced or not. Of this I am quite sure, that if they could substantiate the charges made by the Chancellor of the Exchequer, there would be no repugnance or difficulty on the part of his colleagues about laying them on the table. If they are refused, I presume the fair inference will be, to say the least, that they do not support those charges. I certainly have a very strong suspicion on my own mind that they contain abundant matter for repudiating them. (Hear, hear.) I should by no means recommend him to press for their production against the wish of Her Majesty's Government. I think he may feel perfectly satisfied with what has taken place. And I trust what has passed in this House will afford some reparation to that unfortunate and injured Sovereign—into the merits of whose government I will not enter—for the grievous wrong and injustice which have been perpetrated upon him in the other House of Parliament. (Loud cheers.)



